



भारत का राजपत्र The Gazette of India

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नई दिल्ली, शनिवार, मई 18, 2002/वैशाख 28, 1924

No. 20]

NEW DELHI, SATURDAY, MAY 18, 2002/VAISAKHA 28, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (III)
PART II—Section 3—Sub-Section (III)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 8 मई, 2002

का.आ.1644.—केन्द्रीय सरकार, सीमा सुरक्षा बल,
अधिनियम, 1968 (1968 का 47) की धारा 141 द्वारा
प्रदत्त शक्तियों का प्रयोग करते हुए, सीमा सुरक्षा बल नियम,
1969 का और संशोधन करने के लिए निम्नलिखित नियम
बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम 'सीमा सुरक्षा बल
(संशोधन) नियम, 2002' है।

1429 GI/2002

(2) ये राजपत्र में प्रकाशन की तारीख से प्रवृत्त
होंगे।

2. सीमा सुरक्षा बल नियम, 1969 में नियम 19 के
उप नियम (1) के दूसरे परन्तुक में,

“और उसे इस प्रयोजन के लिए काडर से मंजूरी प्राप्त
हो जाती है” शब्दों के पश्चात् और “तो उसे उपर्युक्त
के अनुसार धनराशि वापस करने की आवश्यकता नहीं

(4819)

होगी।” शब्दों से पहले “या उसने 10 वर्ष की सेवा पूरी कर ली हो” को जोड़ा जाएगा।

[फा स 1/13/87—सुविअ/सीसुव/पर्स III]

ए भट्टाचार्य, अवर सचिव

वाद टिप्पण :—मूल नियम का आ 2336 तारीख 9 जून, 1969 द्वारा प्रकाशित किए गए थे और तत्पश्चात् उनमें निम्नलिखित संशोधन किए गए —

- (1) का आ 1362 तारीख 7 अप्रैल, 1970
- (2) का आ. 4034 तारीख 21 अक्टूबर, 1971
- (3) का आ 5087 तारीख 6 नवम्बर, 1971
- (4) का आ 329(अ) तारीख 29 अप्रैल, 1981
- (5) का आ 155(अ) तारीख 1 मार्च, 1983
- (6) का आ 187(अ) तारीख 23 मार्च, 1984
- (7) का आ 436(अ) तारीख 29 मई, 1990
- (8) का आ 185(अ) तारीख 13 मार्च, 1993
- (9) का आ 1040 तारीख 25 मार्च 1996
- (10) का आ. 1686 तारीख 31 मई, 1996
- (11) का आ 166 तारीख 14 जनवरी, 1998
- (12) का आ 55(अ) तारीख 1 फरवरी, 1999

MINISTRY OF HOME AFFAIRS

New Delhi, the 8th May, 2002

S.O. 1644.—In exercise of powers conferred by Section 141 of the Border Security Force Act, 1968 (47 of 1968), the Central Government hereby makes the following rules, further to amend the Border Security Force Rules, 1969. namely :—

1. (1) These rules may be called the Border Security Force (Amendment) Rules 2002

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Border Security Force Rules, 1969, Rule 19, in Sub Rule (1), in second proviso after the words “for the same” and before the words “shall not be”, the following shall be added, namely :—

“or who has completed 10 years of service”.

[F. No. 1/13/87-CLO BSF/Pers-III]

A. BHATTACHARYYA. Under Secy.

Foot Note. —The principal rules were published in Gazette of India vide S.O. 2336 dated 9 June, 1969 and subsequently amended by :—

- (i) S.O. 1362 dated 7 Apr. 1970
- (ii) S.O. 4034 dated 21 Oct. 1971
- (iii) S.O. 5087 dated 6 Nov. 1971
- (iv) S.O. 329(E) dated 29 Apr. 1981
- (v) S.O. 155 (E) dated 1 Mar. 1983
- (vi) S.O. 187(E) dated 23 Mar. 1984
- (vii) S.O. 436(E) dated 29 May 1990
- (viii) S.O. 188(E) dated 13 Mar. 1993
- (ix) S.O. 1040 dated 25 Mar. 1996
- (x) S.O. 1686 dated 31 May 1996
- (xi) S.O. 166 dated 14 Jan. 1998
- (xii) S.O. 55(E) dated 1 Feb. 1999.

कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 8 मई, 2002

का.आ. 1645—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा राजस्थान राज्य सरकार के गृह (समूह-5) विभाग, की दिनांक 05 अप्रैल, 2002 की अधिसूचना संख्या ई-14(II) गृह-वी/2002 द्वारा प्राप्त सहमति से भारतीय दंड संहिता, 1860 की धारा 302, 365, 120-ख और 201 के तहत दण्डनीय अपराधों का अन्वेषण और दिनांक 19-01-2002 को जैसलमेर कोतवाली पुलिस स्टेशन, राजस्थान में दर्ज अपराध मामला स. 22/20 201 अन्वेषण तथा उसी संव्यवहार के क्रम में अथवा उन्ही तथ्यों से उद्भूत किए गए अपराधों से संसक्त अथवा संबद्ध दुष्प्रयासों, दण्डप्रेरणों और षडयंत्रों का अन्वेषण करने हेतु दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण राजस्थान राज्य सरकार के संबंध में करती है।

[संख्या 228/27/2002-ए वी डी.-II]

परमा नंद, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 8th May, 2002

S.O. 1645.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act, No. 25 of 1946), the Central Government with the consent of the State Government of Rajasthan Home (Group-5) Department, Jaipur vide Notification No. E-14(11) Home-V/2002

dated 5th April, 2002, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Rajasthan for investigation of offences punishable under Sections 302, 365, 120-B and 201 of the Indian Penal Code, 1860, and attempt, abetment and conspiracy in relation to or in connection with the offences committed in the course of the same transaction or arising out of the same facts of Crime No. 22/2002 dated 19-1-2002 registered at Jaisalmer Kotwali Police Station Rajasthan.

[No. 228/27/2002-AVD-II]

PARMA NAND, Under Secy.

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 7 मई, 2002

का.आ. 1646—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खंड 3 के उपखंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम 1970 की धारा 9 की उपधारा (3) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री जयप्रकाश शर्मा, लिपिक, सिडिकेट बैंक, सुगर बाजार शाखा, नई दिल्ली को 7-5-2002 में नौ वर्ष की अवधि के लिए या उसके बाद उनके उत्तराधिकारी की नियुक्ति होने तक या सिडिकेट बैंक के कर्मकार कर्मचारी के रूप में उनकी सेवाएं समाप्त होने तक, इनमें से जो भी पहले हो, सिडिकेट बैंक के निदेशक बोर्ड में निदेशक के रूप में नामित करती है।

[संख्या 15/8/2001-आईआर]

ए. शर्मा, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 7th May, 2002

S.O. 1646.—In exercise of the powers conferred by Clause (e) of Sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of Clause 3 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970. the Central Government hereby appoints Shri Jai Prakash Sharma, Clerk, Syndicate Bank, Super Bazar Branch, New Delhi as a Workmen Employee Director on the Board of Directors of Syndicate Bank for a period of three years with effect from 7-5-2002 and thereafter until his successor is appointed or till he ceases to be a workman employee of the Syndicate Bank whichever is earlier.

[F. No. 15/8/2001-IR]

A. THOMAS, Under Secy.

पोत परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 29 अप्रैल, 2002

का.आ. 1647.—राष्ट्रीय नौवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्यिक पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा सरकार, पोत परिवहन मंत्रालय (नौवहन पक्ष) की दिनांक 30

अगस्त, 2001 की अधिसूचना सं. एसएस-18011/1/2001 एसएल में निम्नलिखित संशोधन करती है।

i. उक्त अधिसूचना में विद्यमान प्रविष्टि II के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात् :—

“II वाइस एडमिरल एस.वी. गोपालाचारी,

एवीएसएम, बीएसएम, डिप्टी चीफ आफ नेवल स्टाफ, भारतीय नौसेना, नई दिल्ली।

[फा. सं. एसएस-18011/1/2001-एसएल]

मुंशी राम, अव्वर मचिव

MINISTRY OF SHIPPING

(Shipping Wing)

New Delhi, the 29th April, 2002

S.O. 1647.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 3 and 4 (1) of the National Shipping Board Rules, 1960, the Central Government hereby makes the following amendments in the Government of India, Ministry of Shipping's Gazette notification No. SS-18011/1/2001-SL dated 30th August, 2001 :—

(i) In the said notification, for the existing entry at S. No. 11 the following entry shall be substituted, namely :—

11. Vice Admiral.

S. V. Gopalachari.

Representative of
Central Government.AVSM, VSM, Dy. Chief of Naval
Staff, Indian Navy, New Delhi.

[File No. SS-18011/1/2001-SL]

MUNSHI RAM. Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 10 मई, 2002

का. आ. 1648.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यां का. आ. 3490 तारीख 21 दिसम्बर, 2001 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में पानेवाड़ी (मनमाड) से मध्यप्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुबई—मनमाड पाइपलाइन विस्तार परियोजना के माध्यम से, भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 18 जनवरी 2002 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उस रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए ;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : इन्दौर

जिला : इन्दौर

राज्य : मध्यप्रदेश

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
1. कलारिया	327(स चरागाह)	0 0383
	326	0 0924
	328/1	0.1805
	328/2	
	328/3	
	329	0 0804
	347/1	0.3968
	347/2	
	348	0 0288
	346(स चरागाह)	0 0397
	342/1	0 0223
	342/2	
	(राष्ट्रीय मार्ग 59)	0 0513
	184	0 0814
	185/1	0 0768
	185/2	
	185/3	
	185/4	
	186/1	0 0812
	186/2	
	182/1	0 1088
	182/2	
	180/1	0 3967
	180/2	
	180/3	
	180/4	
	180/5	
	180/6	
	180/7	
	180/8	
	88/379	0.0030
	88/378	0 0309

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
कलारिया (चालू....)	88	0.1897
	87/1/1	0.2112
	87/1/2	
	87/1/3	
	87/2	
	91	0.0361
	90/1	0.2788
	90/2	
	96,97,99 (सभी उपमंडल सं.)	0.1055
	102 (स. यस्ता)	0.0315
	109/1	0.0800
	109/2	
	109/3	
	108	0.1704
	107 (स. चयगाह)	0.0151
2. घरनावद	106/1	0.6727
	103/1	0.0400
	103/2	
	229(स. चरागाह)	0.0400
	228/1	0.0400
	228/2	
	107	0.1200
	218	0.1211
	216	0.0792
	219/2	0.0720
	219/1	0.3528
	220/2/2	0.3464
	197/1	0.2124
	197/2	
	197/3	
	197/4	
	209	0.2016
	208	0.0216

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
धरनावद (चालू...)	199/1	0.0180
	199/2	
	200	0.0720
	202/2	0.0108
	201 (स. यस्ता)	0.0324
	198 (स.नाला)	0.0046
	190/1	0.0899
	190/2	0.1050
	189	0.3380
	179 (स.नाला)	0.0360
	178/2	0.0655
	172/2/1	0.0864
	177(स. चयगाह)	0.0180
	172/2/2	0.0668
	172/2/3	0.0695
	172/2/4	0.0535
	172/2/5	0.2424
	173/1	0.2431
	174	0.0216
	172/3	0.0108
3. सावलिया खेड़ी	161(स. चयगाह)	0.0136
	159/1	0.1000
	159/2	
	158	0.2800
	157(स. चयगाह)	0.0972
	156	0.3731
	151	0.2345
	135	0.0808
	134	0.0589
	133/1	0.1964
	133/2	
	133/3	
	131/1	0.2955
	131/2	

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
सावलिया खेड़ी (चालू.)	131/3	पूर्व पृष्ठ से
	131/4	
	128/1	0.2710
	128/2	
	124/1	0.1830
	124/2	
	119	0.0020
	118/1, 116/1	0.2111
	118/2, 116/2	
	120/1	0.0798
	120/2	
	117/1/1	0.1184
	117/1/2	
	117/2	
	114/1	0.2768
	114/2	
	114/3	
	114/4	
	114/5	
	115	0.0144
4. पिपलिया तफा	110/1	0.5148
	110/2	
	110/3	
	110/4	
	104	0.0876
	99/1	0.1793
	99/2	
	99/3	
	97	0.0207
	100 (स.नाला)	0.0406
5. रिंजलाई जागीर	30	0.5183
	29	0.1155
	28	0.1246

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
रिंजलाई जागीर (चालू....)	33	0.1276
	34/1	0.6256
	34/2	
	34/3/1	
	34/3/2	
	34/4	
	34/5/1	
	34/5/2	
	1	0.0857
	211,210 (स रास्ता)	0.0140
	205/1	0.1260
	205/2	
	205/3	
	204	0.2140
	10	0.0476
	70 (स नाला)	0.0344
	102/1/1	0.8339
	102/1/2	
	102/2	
	102/3, 103, 104, 105, 106	
6. जम्बूड़ी हप्सी	109	0.1102
	101	0.1131
	100	0.1001
	21	0.2423
	24	0.1921
	25	0.0846
	26	0.0576
	31	0.2450
	399	0.0464
	596/1/1	0.2599
	596/1/2	
	596/1/3	
	596/2/1	
	596/2/2	

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
जम्बूड़ी हप्सी (चालू...)	586	0.4133
	584	0.3336
	583/3/1	0.1180
	583/3/2	
	582(स. चय. एवं यस्ता)	0.0498
	570/1	0.3312
	570/2	
	571/1	0.2592
	571/2	
	572/1/1	0.1431
	572/1/2	
	572/2	
	553/1/1	0.3708
	553/1/2	
	553/2	
	554/1	0.1696
	554/2/1	
	554/2/2	
	550/1	0.1035
	550/2	
	551/1	0.0010
	551/2	
	551/3	
	162/1	0.0504
	162/2, 163/1/1	
	161	0.3017
	160/1	0.1370
	160/2	
	160/3	
	160/4	
	164	0.1476

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
जम्बूड़ी हप्सी (चालू..)	165/1/1	0.3001
	165/1/2	
	165/2	
	165/3	
	169/2/1	0.4680
	169/1/1	
	169/2/2	
	169/2/3	
	153/1/1	0.3260
	153/1/2	
	153/2	
	141/1/1	0.6872
	141/1/2	
	141/2/1	
	141/2/2	
	141/3/1	
	141/3/2	
	141/3/3	
	120	0.0172
	106(स.च.य. एवं यस्ता)	0.1388
7. बुढ़ानिया	170/1	0.3797
	170/2	
	170/3	
	171(सड़क)	0.0531
	172/1	0.2277
	172/2	
	172/3	
	173/1	0.1634
	175	0.5842
	409/1	0.0064
	397	0.1608
	396/1	0.2056
	396/2	

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में	
बुढ़ानिया (चालू...)	387	0.1843	
	385/1	0.2197	
	384	0.0365	
	362	0.0101	
	52(स. यस्ता)	0.0133	
	345	0.0254	
	346/1	}	0.2702
	346/2		
	347/1	0.1979	
	347/2	0.0398	
	349	0.2356	
	348	0.2528	
	340/1	0.1794	
	340/2	0.1866	
	340/3	0.1461	
	338	0.0032	
	340/5	0.0302	
	333/2,334/2	0.3886	
	323 (स. चरागाह)	0.0373	
	8. पालाखेडी	1	0.0300
		91	0.3157
		90/3/3	0.0311
		90/2/2	0.1259
90/2/1		0.1251	
90/1/2		0.1431	
90/1/3		0.0710	
89		0.4619	
88/1		}	0.1180
88/2			
85/1,2(स.रास्ता)		0.1510	
108		0.0065	
87/1/1		0.3113	
86/1		0.0022	
86/2		0.2118	

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में	
पालाखेडी (चालू...)	87/1/2	0.2385	
	72/2	0.0227	
	87/1/3/1	0.0036	
	73/1/1	0.0251	
	71/1/1/क	0.1095	
	21/5	0.2830	
	71/1/1/ख	0.0684	
	21/6	0.0020	
	71/1,71/2क	0.0303	
	21/4	0.1220	
	64	0.1271	
	22/5	0.1055	
	61	0.0502	
	23	0.2614	
	60/1	0 0088	
	34/1/1/2	0.0180	
	34/1/1/1	0.2722	
	31	0 0546	
	25/1/1	0.0344	
	30	0.0010	
	29/2	0.1323	
	179/1	0.0115	
	178/2	0.1056	
	176	0 1290	
	181(स.नाला)	0.0220	
	186	0.0280	
	185	0.1179	
	184/2/2	0.3034	
	183	0.1330	
	182/2,275	}	0 0704
	182/3		
	276		0 1290
	277 (स.नाला)		0.0152
	278		0.2030

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में	
9. लिम्बोदागारी	193/1,188/2	0.0108	
	192 (स. चरागाह)	0.1965	
	438/1	}	0.2906
	438/2		
	438/3		
	458		0.2617
	457/2		0.0253
	456/1/2		0.0743
	456/1/1		0.2134
	456/2		0.0244
	453		0.0426
	454/2		0.3402
	454/1		0.0112
	452/2		0.0777
	461/4		0.0158
	451		0.2262
	463		0.3191
	466/1		0.4825
	468/1	}	0.3393
	468/2		
	476/3/4	}	0.1161
	476/3/3		
	410/1	}	0.2043
	410/2		
	409 (स. रेल्वे)		0.0549
	403		0.0612
	402		0.0920
	400		0.2129
	394		0.2917
	393		0.0135
	390 (स.चरागाह)		0.1316
	388		0.0200
	389		0.2519

ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टेयर में
लिम्बोदागारी (चालू...)	382/2, 383/2/2	0.0695
	381	0.4587
	380/2/2	0.0011
	391(स.चरागाह)	0.1407
10. सक्करखेडी	1	0.0396
	2/1	0.0396
	65	0.0168

[फा. सं. आर.-31015/25/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 10th May, 2002

S. O. 1648.— Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O.3490, dated the 21st December 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User^s in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of petroleum products through the Mumbai-Manmad Pipeline Extension Project from Panewadi (Manmad) in the State of Maharashtra to Manglya (Indore) in the State of Madhya Pradesh by the Bharat Petroleum Corporation Limited,

And, whereas, copies of the said Gazette notification were made available to the public on 18th day of January 2002;

And, whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification, should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on the date of the publication of this declaration, in the Bharat Petroleum Corporation Limited, free from all encumbrances..

SCHEDULE**2.**

TEHSIL: INDORE		DISTRICT : INDORE	STATE : MADHYA PRADESH
NAME OF VILLAGE	SURVEY NO. *	AREA IN HECTARE	
1. KALARIYA	327(GL)		0.0383
	326		0.0924
	328/1	}	0.1805
	328/2		
	328/3		
	329		0.0804
	347/1	}	0.3968
	347/2		
	348		0.0288
	346(GL)		0.0397
	342/1	}	0.0223
	342/2		
	(NH 59)		0.0513
	184		0.0814
	185/1	}	0.0768
	185/2		
	185/3		
	185/4	}	0.0812
	186/1		
	186/2	}	0.1088
	182/1		
	182/2	}	0.3967
	180/1		
	180/2		
	180/3		
	180/4		
	180/5		
180/6			
180/7			
180/8			
88/379		0.0030	
88/378		0.0309	
88		0.1897	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
KALARIYA (Cont'd)	87/1/1	0.2112
	87/1/2	
	87/1/3	
	87/2	
	91	0.0361
	90/1	0.2788
	90/2	
	96,97,99 (All Sub divi. No.)	0.1055
	102(GCT)	0.0315
	109/1	0.0800
	109/2	
	109/3	
	108	0.1704
	107(GL)	0.0151
	106/1	0.6727
	103/1	0.0400
	103/2	
2. DHARNAVAD	229(GL)	0.0400
	228/1	0.0400
	228/2	
	107	0.1200
	218	0.1211
	216	0.0792
	219/2	0.0720
	219/1	0.3528
	220/2/2	0.3464
	197/1	0.2124
	197/2	
	197/3	
	197/4	
	209	0.2016
	208	0.0216
	199/1	0.0180
	199/2	
	200	0.0720

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE		
DHARNAVAD (Cont'd)	202/2	0.0108		
	201 (GCT)	0.0324		
	198 (G.DRAIN)	0 0046		
	190/1	0.0899		
	190/2	0 1050		
	189	0.3380		
	179 (G.DRAIN)	0.0360		
	178/2	0.0655		
	172/2/1	0.0864		
	177(GL)	0.0180		
	172/2/2	0 0668		
	172/2/3	0.0695		
	172/2/4	0 0535		
	172/2/5	0.2424		
	173/1	0 2431		
	174	0.0216		
	172/3	0.0108		
	3. SAVLIA KHEDI	161(GL)	0.0136	
		159/1	}	0.1000
		159/2		
158		0.2800		
157(GL)		0.0972		
156		0.3731		
151		0.2345		
135		0.0808		
134		0.0589		
133/1		}	0.1964	
133/2				
133/3				
131/1		}	0.2955	
131/2				
131/3				
131/4				
128/1	}	0.2710		
128/2				

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
SAVLIA KHEDI (Cont'd)	124/1	0.1830
	124/2	
	119	0.0020
	118/1, 116/1	0.2111
	118/2, 116/2	
	120/1	0.0798
	120/2	
	117/1/1	0.1184
	117/1/2	
	117/2	
	114/1	0.2768
	114/2	
	114/3	
	114/4	
	114/5	
4. PIPLIYA TAFI	115	0.0144
	110/1	0.5148
	110/2	
	110/3	
	110/4	
	104	0.0876
	99/1	0.1793
	99/2	
	99/3	
	97	0.0207
5. RINJLAI JAGIR	100 (G.DRAIN)	0.0406
	30	0.5183
	29	0.1155
	28	0.1246
	33	0.1276
	34/1	0.6256
	34/2	
	34/3/1	
	34/3/2	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
RINJLAI JAGIR (Cont'd)	34/4	From Previous Page
	34/5/1	
	34/5/2	
	1	0.0857
	211,210(GCT)	0.0140
	205/1	0.1260
	205/2	
	205/3	
	204	0.2140
	10	0.0476
	70(G.DRAIN)	0.0344
	102/1/1	0.8339
	102/1/2	
	102/2	
	102/3,103,104,105,106	
	109	0 1102
	101	0 1131
	100	0.1001
	21	0.2423
	24	0.1921
	25	0.0846
	26	0.0576
	31	0.2450
6. JAMBURDI-HAPSI	399	0.0464
	596/1/1	0.2599
	596/1/2	
	596/1/3	
	596/2/1	
	596/2/2	
	586	0.4133
	584	0.3336
	583/3/1	0.1180
	583/3/2	
	582(GL& GCT)	0.0498
	570/1	0.3312
	570/2	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
JAMBURDI-HAPSI (Cont'd)	571/1	0.2592
	571/2	
	572/1/1	0.1431
	572/1/2	
	572/2	
	553/1/1	0.3708
	553/1/2	
	553/2	
	554/1	0.1696
	554/2/1	
	554/2/2	
	550/1	0.1035
	550/2	
	551/1	0.0010
	551/2	
	551/3	
	162/1	0.0504
	162/2, 163/1/1	
	161	0.3017
	160/1	0.1370
	160/2	
	160/3	
	160/4	
	164	0.1476
	165/1/1	0.3001
	165/1/2	
	165/2	
	165/3	
	169/2/1	0.4680
	169/1/1	
	169/2/2	
	169/2/3	
	153/1/1	0.3260
	153/1/2	
	153/2	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
JAMBURDI-HAPSI (Cont'd)	141/1/1	0.6872
	141/1/2	
	141/2/1	
	141/2/2	
	141/3/1	
	141/3/2	
	141/3/3	
7. BUDHANIYA	120	0.0172
	106(GL&GCT)	0.1388
	170/1	0.3797
	170/2	
	170/3	
	171(ROAD)	0.0531
	172/1	0.2277
	172/2	
	172/3	
	173/1	0.1634
	175	0.5842
	409/1	0.0064
	397	0.1608
	396/1	0.2056
	396/2	
	387	0.1843
	385/1	0.2197
	384	0.0365
	362	0.0101
	52(GCT)	0.0133
	345	0.0254
	346/1	0.2702
	346/2	
	347/1	0.1979
	347/2	0.0398
	349	0.2356
	348	0.2528
	340/1	0.1794

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE	
BUDHANIYA (Cont'd)	340/2	0.1866	
	340/3	0.1461	
	338	0.0032	
	340/5	0.0302	
	333/2,334/2	0.3886	
	323(GL)	0.0373	
8. PALAKHEDI	1	0.0300	
	91	0.3157	
	90/3/3	0.0311	
	90/2/2	0.1259	
	90/2/1	0.1251	
	90/1/2	0.1431	
	90/1/3	0.0710	
	89	0.4619	
	88/1	}	0.1180
	88/2		
	85/1,2(GCT)	0.1510	
	108	0.0065	
	87/1/1	0.3113	
	86/1	0.0022	
	86/2	0.2118	
	87/1/2	0.2385	
	72/2	0.0227	
	87/1/3/1	0.0036	
	73/1/1	0.0251	
	71/1/1/K	0.1095	
	21/5	0.2830	
	71/1/1/KH	0.0684	
	21/6	0.0020	
	71/1,71/2 K	0.0303	
	21/4	0.1220	
	64	0.1271	
	22/5	0.1055	
	61	0.0502	
	23	0.2614	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE	
PALAKHEDI (Cont'd)	60/1	0.0088	
	34/1/1/2	0.0180	
	34/1/1/1	0.2722	
	31	0.0546	
	25/1/1	0.0344	
	30	0.0010	
	29/2	0.1323	
	179/1	0.0115	
	178/2	0.1056	
	176	0.1290	
	181 (G.DRAIN)	0.0220	
	186	0.0280	
	185	0.1179	
	184/2/2	0.3034	
	183	0.1330	
	182/2,275	}	0.0704
	182/3		
	276	0.1290	
	277 (G.DRAIN)	0.0152	
	278	0.2030	
9. LIMBODAGARI	193/1,188/2	0.0108	
	192(GL)	0.1965	
	438/1	}	0.2906
	438/2		
	438/3		
	458	0.2617	
	457/2	0.0253	
	456/1/2	0.0743	
	456/1/1	0.2134	
	456/2	0.0244	
	453	0.0426	
	454/2	0.3402	
	454/1	0.0112	
	452/2	0.0777	
	461/4	0.0158	

NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE	
LIMBODAGARI (Cont'd)	451	0.2262	
	463	0.3191	
	466/1	0.4825	
	468/1	}	0.3393
	468/2		
	476/3/4	}	0.1161
	476/3/3		
	410/1	}	0.2043
	410/2		
	409(Rly. Line ,MG)	0.0549	
	403	0.0612	
	402	0.0920	
	400	0.2129	
	394	0.2917	
	393	0.0135	
	390 (GL)	0.1316	
	388	0.0200	
	389	0.2519	
	382/2,383/2/2	0.0695	
	381	0.4587	
	380/2/2	0.0011	
	391(GL)	0.1407	
10. SAKKARKHEDI	1	0.0396	
	2/1	0.0396	
	65	0.0168	

[F No R-31015/25/2001-OR-II]
HARISH KUMAR, Under Secy

नई दिल्ली, 10 मई, 2002

का.आ. 1649.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पत्तनस्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) से पंजाब राज्य में भटिंडा तक मुन्द्रा-भटिंडा पाइपलाइन से होकर अपरिष्कृत तेल के परिवहन के लिए एक पाइपलाइन गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग का अधिकार अर्जित किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार को अर्जित करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाने के लिए अधिकार के अर्जन के सम्बन्ध में श्री डी. के. पारेख, सक्षम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी), टपाल पेटी नं० 43, यूनिट-2, मु. पो. खारी, रोहर, गांधीधाम, राज्य गुजरात को लिखित रूप में आक्षेप भेज सकेगा ।

अनुसूची

तालुका :- डीसा

जिला :- बनासकांठा

राज्य :- गुजरात

गाँव का नाम	(खसरा) सर्वेक्षण कमांक	हिस्सा कमांक	क्षेत्रफल		
			हेक्टर	आर	मेन्टी आर
1	2	3	4		
मुडठा	1204		0	20	78
	1203	पेकी	0	20	93
	1203	पेकी कार्ट ट्रैक	0	00	55
	1202	पेकी कार्ट ट्रैक	0	00	55
	1202	पेकी	0	18	37
	---	कार्ट ट्रैक	0	26	72
	1116		0	06	38
	1199		0	01	53
	1198	पेकी	0	31	01
	1117		0	12	87
	1118		0	10	51
	---	कार्ट ट्रैक	0	02	35
	1162	पेकी	0	42	82
	1162	पेकी कार्ट ट्रैक	0	00	51
	1194	पेकी	0	06	69
	1194	पेकी कार्ट ट्रैक	0	06	51
	1193	पेकी	0	29	08
	1193	पेकी कार्ट ट्रैक	0	08	05
	1190	पेकी	0	02	09
	1190	पेकी कार्ट ट्रैक	0	00	22
	1189	पेकी	0	15	92
	1189	पेकी कार्ट ट्रैक	0	05	23
	1188	पेकी	0	15	27
	1188	पेकी कार्ट ट्रैक	0	02	50
	1185	पेकी	0	43	35
	1185	पेकी कार्ट ट्रैक	0	05	03
	1182/1	पेकी	0	21	01
	---	कार्ट ट्रैक	0	03	16
	1390		0	36	27
	1392		0	04	12
	1389		0	01	42

मुडेठा (जारी)	1387		0	33	54
	1386	पैकी	0	51	79
	1381	पैकी	0	28	97
	1381	पैकी कार्ट ट्रैक	0	01	10
	1380/1	पैकी	0	08	39
	---	कार्ट ट्रैक	0	01	72
	1359	पैकी	0	26	22
	1361	पैकी	0	31	86
	1362/2		0	03	62
	1368/1		0	02	66
	1367/2		0	09	44
	1366		0	28	72
	1365/2		0	05	31
	1370	पैकी	0	27	83
	1370	पैकी कार्ट ट्रैक	0	03	01
पालडी	56		0	45	95
	50	पैकी	0	27	15
	49/1		0	19	78
	49/2		0	20	23
	45/1		0	43	09
	43		0	52	98
	42	पैकी कार्ट ट्रैक	0	01	10
	42	पैकी	0	22	47
	41	पैकी	0	23	30
	40/1		0	25	64
	40/2		0	22	83
	26	पैकी	0	79	04
	26	पैकी कार्ट ट्रैक	0	01	10
	26	पैकी कार्ट ट्रैक	0	01	10
	24/2		0	31	22
	24/1		0	04	64
	23/2	पैकी	0	37	93
	23/1	पैकी	0	13	79
	23/2	पैकी कार्ट ट्रैक	0	01	10
	21/3		0	00	04
	18/1	पैकी	0	03	28
	18/1	पैकी कार्ट ट्रैक	0	00	55
	19	पैकी कार्ट ट्रैक	0	00	55
	19	पैकी	0	51	40
	16/1		0	00	61
	15/4		0	21	78
	15/6	पैकी	0	31	90
	15/5		0	10	94
	15/2	पैकी	0	23	38
	15/2	पैकी कार्ट ट्रैक	0	01	32
रतनपुर (गजनीपुर)	35	पैकी	0	13	73
	34	पैकी	0	24	94
	33/1	पैकी	0	35	34
	30	पैकी	0	44	39
	29		0	00	96
	31	पैकी	0	45	59

रतनपुर (गजनौर)	23	पैकी	कार्ट ट्रैक	0	01	10
	23	पैकी		0	19	53
	23	पैकी	कार्ट ट्रैक	0	01	10
	17	पैकी		0	68	93
	18/1			0	06	47
	19	पैकी		0	35	29
	19	पैकी	कार्ट ट्रैक	0	01	10
नई भीलडी	19	पैकी		0	46	64
	19	पैकी	कार्ट ट्रैक	0	01	10
	224/1			0	16	53
	224/2	पैकी		0	17	28
	20/2	पैकी		0	34	33
	21/1	पैकी		0	34	87
	21/2			0	16	61
	31/3			0	31	29
	31/2			0	32	03
	31/1			0	06	68
	32/2	पैकी		0	47	21
	37	पैकी		0	46	14
	37	पैकी	कार्ट ट्रैक	0	01	10
	38/1	पैकी		0	18	67
	38/2	पैकी		0	34	35
	38/2	पैकी	कार्ट ट्रैक	0	00	55
	39/1	पैकी		0	38	99
	39/2			0	00	23
	39/1	पैकी	कार्ट ट्रैक	0	00	55
	40/1	पैकी		0	54	83
	40/1	पैकी	कार्ट ट्रैक	0	01	10
पुरानी भीलडी	32/1	पैकी		0	27	22
सोयला	24/1			0	02	40
	24/2			0	24	61
	21/7			0	01	22
	14/3	पैकी		0	08	30
	9/2	पैकी		0	00	82
गरनाल मोटी	139			0	28	06
	117	पैकी		0	34	55
	118/1	पैकी		0	24	72
	118/1	पैकी	कार्ट ट्रैक	0	01	10
	119/5	पैकी		0	15	01
	119/3			0	01	59
	119/4			0	17	58
	119/2			0	00	04
	113	पैकी		0	24	58
	108	पैकी		0	25	85
	107			0	18	28
	100	पैकी		0	43	84

गरनाल मोर्टी (जारी)	100	पेकी	कार्ट ट्रैक	0	01	10
	84/1			0	24	40
	84/2			0	27	01
	85			0	02	73
	78	पेकी		0	42	00
	77	पेकी		0	53	43
	71	पेकी		0	11	90
	72			0	30	80
	69/2			0	11	24
	69/1	पेकी		0	39	53
	69/1	पेकी	कार्ट ट्रैक	0	01	10
	68			0	00	83
खेटवा	32/1			0	03	14
	33/1			0	28	90
	33/2	पेकी		0	25	32
	34			0	01	88
	35/1			0	15	71
	35/2	पेकी		0	12	82
सीतबला	105	पेकी		1	03	53
	107			0	38	95
	118	पेकी		0	59	74
	115	पेकी		0	97	92
	114	पेकी	कार्ट ट्रैक	0	01	10
	114	पेकी		0	20	38
	6	पेकी		0	80	49
	6	पेकी	कार्ट ट्रैक	0	01	10
	7	पेकी		0	13	96
	6	पेकी	कार्ट ट्रैक	0	01	10
	25			0	21	76
	23/1	पेकी		0	18	62
	36/4			0	12	37
	36/3			0	00	90
	36/2			0	32	51
	36/1			0	10	84
	32	पेकी	कार्ट ट्रैक	0	01	10
	32	पेकी		0	30	83
	38	पेकी		0	34	34
	31/1	पेकी		0	52	81
डंडाल	4	पेकी		0	36	12
	3	पेकी		0	32	97
	34/1/23			0	06	14
	34/1/24			0	21	07
	34/1/19	पेकी		0	15	65

डेडोल (जारी)	34/1/20		0	20	79
	34/1/15	पैकी कार्ट ट्रैक	0	02	67
	34/1/15	पैकी	0	30	51
	34/1/16		0	13	02
	34/1/18	पैकी	0	43	08
	34/1/17	पैकी	0	10	88
	34/2	पैकी	0	09	20
लोरवाडा	94/1	पैकी	0	25	35
	94/2		0	41	08
	95	पैकी	0	20	64
	95	पैकी कार्ट ट्रैक	0	01	10
	97/1	पैकी	0	24	05
	97/2	पैकी	0	37	01
	142/3	पैकी	0	12	46
	142/2		0	05	74
	142/3	पैकी कार्ट ट्रैक	0	01	10
	141	पैकी	0	70	27
	129	पैकी	0	19	25
	129	पैकी कार्ट ट्रैक	0	01	10
	130	पैकी	0	56	08
	130	पैकी कार्ट ट्रैक	0	01	10
	131		0	08	03
	135/2	पैकी	0	44	09
	134/3		0	30	38
	134/2	पैकी	0	20	64
	134/1		0	10	57
	133	पैकी कार्ट ट्रैक	0	01	10
	133	पैकी	0	13	35
	195		0	44	00
	196	पैकी	0	05	50
	199		0	19	92
	198	पैकी	0	64	92
	215	पैकी	0	75	77
	215	पैकी कार्ट ट्रैक	0	01	10
	216		0	29	68
लोरवाडा (जारी)	217	पैकी	0	23	79
	222	पैकी कार्ट ट्रैक	0	01	10
	222	पैकी	0	62	34
	221		0	03	58
	225	पैकी	0	08	79
	226		0	27	46
वडावल	169	पैकी	0	35	69
	169	पैकी कार्ट ट्रैक	0	01	10
	171	पैकी	0	42	93
	173	पैकी	0	30	55
	173	पैकी कार्ट ट्रैक	0	01	10
	165/1		0	00	22
	174	पैकी	0	24	20
	160	पैकी	0	34	04

बडावल	158	पैकी	0	23	73
	156	पैकी	0	15	90
	156	पैकी कार्ट ट्रैक	0	01	10
	154		0	20	90
	149	पैकी	0	24	26
	150	पैकी	0	15	88
	151	पैकी	0	21	24
	---	कार्ट ट्रैक	0	02	37
	257		0	26	41
	256/1	पैकी	0	54	97
	255	पैकी	0	79	34
	255	पैकी कार्ट ट्रैक	0	01	10
	249	पैकी	0	05	63
समशेरपुरा	91/1	पैकी	0	38	19
	91/2		0	03	32
	91/1	पैकी कार्ट ट्रैक	0	01	10
	88	पैकी	0	45	24
	87	पैकी कार्ट ट्रैक	0	01	10
	87	पैकी	0	32	74
	86	पैकी	0	75	15
	---	कार्ट ट्रैक	0	05	78
	48+49	पैकी	0	55	85
	50	पैकी	0	49	78
	51	पैकी	0	35	29
	64	पैकी	0	30	15
	52/1	पैकी	0	61	57
	52/2		0	01	74
	52/1	पैकी कार्ट ट्रैक	0	00	55
	57	पैकी कार्ट ट्रैक	0	00	55
	57	पैकी	0	65	11
	58	पैकी	0	31	82
	59		0	33	12
बाइवाडा	229/1	पैकी	0	00	97
	238		0	06	66
	237		0	33	04
	236/1	पैकी	0	39	90
	235		0	21	07
	244	पैकी	0	18	63
	244	पैकी कार्ट ट्रैक	0	01	10
	242		0	18	96
	266	पैकी	0	03	93
	245		0	10	92
	265		0	24	78
	263/2	पैकी	0	12	72
	276+278		0	09	11
	277		0	40	86

बाइवाडा (जारी)	279/2	पैकी	0	39	55
	285/1		0	15	41
	283	पैकी	0	16	11
	284		0	15	12
	296/2	पैकी	0	43	97
	296/1	पैकी	0	32	73
	296/1	पैकी कार्ट ट्रैक	0	01	10
	297/2		0	27	06
	298	पैकी	0	14	50
	299		0	00	02
	293	पैकी	0	40	60
	---	कार्ट ट्रैक	0	03	99
	365	पैकी	0	54	20
	365	पैकी कार्ट ट्रैक	0	01	10
	366		0	35	76
	387/2		0	24	25
	387/1		0	22	39
	389		0	21	47
	390		0	19	81
	391	पैकी	0	51	68
	391	पैकी कार्ट ट्रैक	0	01	10
	392/1	पैकी	0	00	22
	396	पैकी	0	22	74
	395		0	15	75
	425	पैकी	0	03	46
	425	पैकी कार्ट ट्रैक	0	00	55
	423	पैकी कार्ट ट्रैक	0	00	55
	423	पैकी	0	27	17
	424	पैकी	0	35	15

[फा. सं. आर.-31015/49/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 10th May, 2002

S. O. 1649.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from Crude Oil Terminal (COT) at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab through Mundra – Bathinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Ltd);

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user (ROU) in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now; therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri D.K.PAREKH, Competent Authority, Mundra – Bathinda Crude Oil Pipeline, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Ltd.), P.B. No. 43, Unit 2, HPCL., At & PO Khari Rohar, Tal. Gandhidham, State Gujarat

SCHEDULE

Taluka :- Deesa

District :- Banaskantha

State :- Gujarat

Name of Village	Survey No	Part if Any	ROU Area		
			Ha.	Ar	Sq.mt.
1	2	3	4		
1. MUDETHA	1204		0	20	78
	1203	P	0	20	93
	1203	P Cart Track	0	00	55
	1202	P Cart Track	0	00	55
	1202	P	0	18	37
	---	Cart Track	0	26	72
	1116		0	06	38
	1199		0	01	53
	1198	P	0	31	01
	1117		0	12	87
	1118		0	10	51
	---	Cart Track	0	02	35
	1162	P	0	42	82
	1162	P Cart Track	0	00	51
	1194	P	0	06	69
	1194	P Cart Track	0	06	51
	1193	P	0	29	08
	1193	P Cart Track	0	08	05
	1190	P	0	02	09
	1190	P Cart Track	0	00	22
	1189	P	0	15	92
	1189	P Cart Track	0	05	23
	1188	P	0	15	27
	1188	P Cart Track	0	02	50
	1185	P	0	43	35
	1185	P Cart Track	0	05	03
	1182/1	P	0	21	01
	---	Cart Track	0	03	16
	1390		0	36	27
	1392		0	04	12
	1389		0	01	42

MUDETHA Contd.	1387			0	33	54
	1386	P		0	51	79
	1381	P		0	28	97
	1381	P	Cart Track	0	01	10
	1380/1	P		0	08	39
	---		Cart Track	0	01	72
	1359	P		0	26	22
	1361	P		0	31	86
	1362/2			0	03	62
	1368/1			0	02	66
	1367/2			0	09	44
	1366			0	28	72
	1365/2			0	05	31
	1370	P		0	27	83
	1370	P	Cart Track	0	03	01
2. PALDI	56			0	45	95
	50	P		0	27	15
	49/1			0	19	78
	49/2			0	20	23
	45/1			0	43	09
	43			0	52	98
	42	P	Cart Track	0	01	10
	42	P		0	22	47
	41	P		0	23	30
	40/1			0	25	64
	40/2			0	22	83
	26	P		0	79	04
	26	P	Cart Track	0	01	10
	26	P	Cart Track	0	01	10
	24/2			0	31	22
	24/1			0	04	64
	23/2	P		0	07	93
	23/1	P		0	13	79
	23/2	P	Cart Track	0	01	10
	21/3			0	00	04

PALDI Contd.	18/1	P		0	03	28
	18/1	P	Cart Track	0	00	55
	19	P	Cart Track	0	00	55
	19	P		0	51	40
	16/1			0	00	61
	15/4			0	21	78
	15/6	P		0	31	90
	15/5			0	10	94
	15/2	P		0	23	38
	15/2	P	Cart Track	0	01	32
3. RATANPUR (GAJNIPUR)	35	P		0	13	73
	34	P		0	24	94
	33/1	P		0	35	34
	30	P		0	44	39
	29			0	00	96
	31	P		0	45	59
	23	P	Cart Track	0	01	10
	23	P		0	19	53
	23	P	Cart Track	0	01	10
	17	P		0	68	93
	18/1			0	06	47
	19	P		0	35	29
	19	P	Cart Track	0	01	10
4. NEW BHILDI	19	P		0	46	64
	19	P	Cart Track	0	01	10
	224/1			0	16	53
	224/2	P		0	17	28
	20/2	P		0	34	33
	21/1	P		0	34	87
	21/2			0	16	61
	31/3			0	31	29
	31/2			0	32	03
	31/1			0	06	68
	32/2	P		0	47	21
	37	P		0	46	14

NEW BHILDI Contd.	37	P	Cart Track	0	01	10
	38/1	P		0	18	67
	38/2	P		0	34	35
	38/2	P	Cart Track	0	00	55
	39/1	P		0	38	99
	39/2			0	00	23
	39/1	P	Cart Track	0	00	55
	40/1	P		0	54	83
	40/1	P	Cart Track	0	01	10
5* OLD BHILDI	32/1	P		0	27	22
6. SOYLA	24/1			0	02	40
	24/2			0	24	61
	21/7			0	01	22
	14/3	P		0	08	30
	9/2	P		0	00	82
7. GARNAL MOTI	139			0	28	06
	117	P		0	34	55
	118/1	P		0	24	72
	118/1	P	Cart Track	0	01	10
	119/5	P		0	15	01
	119/3			0	01	59
	119/4			0	17	58
	119/2			0	00	04
	113	P		0	24	58
	108	P		0	25	85
	107			0	18	28
	100	P		0	43	84
	100	P	Cart Track	0	01	10
	84/1			0	24	40
	84/2			0	27	01
	85			0	02	73
	78	P		0	42	00
	77	P		0	53	43
	71	P		0	11	90
	72			0	30	80

GARNAL MOTI Contd.	69/2		0	11	24
	69/1	P	0	39	53
	69/1	P Cart Track	0	01	10
	68		0	00	83
8. KHETWA	32/1		0	03	14
	33/1		0	28	90
	33/2	P	0	25	32
	34		0	01	88
	35/1		0	15	71
	35/2	P	0	12	82
9. SOTAMBLA	105	P	1	03	53
	107		0	38	95
	118	P	0	59	74
	115	P	0	97	92
	114	P Cart Track	0	01	10
	114	P	0	20	38
	6	P	0	80	49
	6	P Cart Track	0	01	10
	7	P	0	13	96
	6	P Cart Track	0	01	10
	25		0	21	76
	23/1	P	0	18	62
	36/4		0	12	37
	36/3		0	00	90
	36/2		0	32	51
	36/1		0	10	84
	32	P Cart Track	0	01	10
	32	P	0	30	83
	38	P	0	34	34
	31/1	P	0	52	81
10. DEDOL	4	P	0	36	12
	3	P	0	32	97
	34/1/23		0	06	14
	34/1/24		0	21	07
	34/1/19	P	0	15	65

DEDOL Contd.	34/1/20			0	20	79
	34/1/15	P	Cart Track	0	02	67
	34/1/15	P		0	30	51
	34/1/16			0	13	02
	34/1/18	P		0	43	08
	34/1/17	P		0	10	88
	34/2	P		0	09	20
11. LORWADA	94/1	P		0	25	35
	94/2			0	41	08
	95	P		0	20	64
	95	P	Cart Track	0	01	10
	97/1	P		0	24	05
	97/2	P		0	37	01
	142/3	P		0	12	46
	142/2			0	05	74
	142/3	P	Cart Track	0	01	10
	141	P		0	70	27
	129	P		0	19	25
	129	P	Cart Track	0	01	10
	130	P		0	56	08
	130	P	Cart Track	0	01	10
	131			0	08	03
	135/2	P		0	44	09
	134/3			0	30	38
	134/2	P		0	20	64
	134/1			0	10	57
	133	P	Cart Track	0	01	10
	133	P		0	13	35
	195			0	44	00
	196	P		0	05	50
	199			0	19	92
	198	P		0	64	92
	215	P		0	75	77
	215	P	Cart Track	0	01	10
	216			0	29	68

LORWADA Contd.	217	P		0	23	79
	222	P	Cart Track	0	01	10
	222	P		0	62	34
	221			0	03	58
	225	P		0	08	79
	226			0	27	46
12. VADAWAL	169	P		0	35	69
	169	P	Cart Track	0	01	10
	171	P		0	42	93
	173	P		0	30	55
	173	P	Cart Track	0	01	10
	165/1			0	00	22
	174	P		0	24	20
	160	P		0	34	04
	158	P		0	23	73
	156	P		0	15	90
	156	P	Cart Track	0	01	10
	154			0	20	90
	149	P		0	24	26
	150	P		0	15	88
	151	P		0	21	24
	---		Cart Track	0	02	37
	257			0	26	41
	256/1	P		0	54	97
	255	P		0	79	34
	255	P	Cart Track	0	01	10
	249	P		0	05	63
SHAMSHERPURA	91/1	P		0	38	19
	91/2			0	03	32
	91/1	P	Cart Track	0	01	10
	88	P		0	45	24
	87	P	Cart Track	0	01	10
	87	P		0	32	74
	86	P		0	75	15
	---		Cart Track	0	05	78

SHAMSHERPURA Contd.	48+49	P		0	55	85
	50	P		0	49	78
	51	P		0	35	29
	64	P		0	30	15
	52/1	P		0	61	57
	52/2			0	01	74
	52/1	P	Cart Track	0	00	55
	57	P	Cart Track	0	00	55
	57	P		0	65	11
	58	P		0	31	82
	59			0	33	12
14. BAIWADA	229/1	P		0	00	97
	238			0	06	66
	237			0	33	04
	236/1	P		0	39	90
	235			0	21	07
	244	P		0	18	63
	244	P	Cart Track	0	01	10
	242			0	18	96
	266	P		0	03	93
	245			0	10	92
	265			0	24	78
	263/2	P		0	12	72
	276+278			0	09	11
	277			0	40	86
	279/2	P		0	39	55
	285/1			0	15	41
	283	P		0	16	11
	284			0	15	12
	296/2	P		0	43	97
	296/1	P		0	32	73
	296/1	P	Cart Track	0	01	10
	297/2			0	27	06
	298	P		0	14	50
	299			0	00	02
	293	P		0	40	60
	---		Cart Track	0	03	99
	365	P		0	54	20
	365	P	Cart Track	0	01	10
	366			0	35	76
	387/2			0	24	25
	387/1			0	22	39
	389			0	21	47
	390			0	19	81
	391			0	51	68

BAIWADA Conted.	391	P	Cart Track	0	01	10
	392/1	P		0	00	22
	396	P		0	22	74
	395			0	15	75
	425	P		0	03	46
	425	P	Cart Track	0	00	55
	423	P	Cart Track	0	00	55
	423	P		0	27	17
	424	P		0	35	15

[F No R-31015/49/2001-OR-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 13 मई, 2002

का. आ. 1650.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यां का. आ. 292 तारीख 30 जनवरी, 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पेट्रोलियम उत्पादों के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 7 मार्च 2002 को उपलब्ध करा दी गई थीं :

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उस भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है :

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची**तहसील : धार****जिला : धार****राज्य : मध्यप्रदेश**

गांव का नाम	सर्वे नंबर	क्षेत्रफल		
		हेक्टेयर	आरे	सेन्टीयर
1	2	3	4	5
1) सरवनिया	104	0	14	95
	105	0	37	10
	106	0	35	5
	118	0	10	35
	140	0	14	75
	139	0	11	35
	141/3	0	0	20
	142	0	20	75
	135/2	0	40	80
	134	0	23	40
	169	0	20	15
	170/1	0	41	30

[फा. सं. एल. 14014/35/2001-जी.पी.]

स्वामी सिंह, निदेशक

New Delhu, the 13th May, 2002

S. O. 1650.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 292, dated the 30th January, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisitions of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) , the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of regassified liquefied natural gas through the Jamnagar--- Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the state of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 7th March, 2002;

And whereas the competent authority has, under sub- section (1) of section 6 of said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub—section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline;

And , further, in exercise of the powers conferred by sub—section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall, instead of vesting in the Central Government, vest, on the date of publication of this declaration, in the Gas Transportation and Infrastructure company Limited, free from all encumbrances.

SCHEDULE

Tehsil : Dhar**District :Dhar****State: Madhya Pradesh****Name of the Village****Survey No****AREA**

		Hectare	Are	C-Are
1	2	3	4	5
1) SARVANIYA	104	0	14	95
	105	0	37	10
	106	0	35	5
	118	0	10	35
	140	0	14	75
	139	0	11	35
	141/3	0	0	20
	142	0	20	75
	135/2	0	40	80
	134	0	23	40
	169	0	20	15
	170/1	0	41	30

[No L 14014/35/2001-G P]
SWAMI SINGH, Director

नई दिल्ली, 13 मई, 2002

का. आ. 1651.— केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खंड 3, उपखंड 2 (ii) तारीख 02 फरवरी, 2002 में प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 298, तारीख 31 जनवरी, 2002 में निम्नलिखित संशोधन करती है, अर्थात :-

उक्त अधिसूचना की अनुसूची में -

- (क) पृष्ठ 990 पर, स्तंभ (1) में "नेकनाम" गाँव के सामने सर्वे सं./खंड सं. "नेकनाम कोयालीया रोड (सं. न. 112/2 और 69 के बीच में)", संतभ 2 में, 3,4 और 5 स्तंभों में "0-6-10" क्षेत्र के स्थान पर "0-6-60" क्षेत्र रखा जायेगा।
- (ख) पृष्ठ 996 पर, स्तंभ (1) में गाँव "प्रतापगढ़" के सामने स्तंभ 2 में सर्वे खंड / खंड सं. "111 / 2 / पे/1" संतभ 3, 4 और 5 में "0-02-80" क्षेत्र के स्थान पर "0-20-80" क्षेत्र रखा जायेगा।

[फा. सं. एल. 14014/8/2001-जी.पी.]
स्वामी सिंह, निदेशक

New Delhi, the 13th May, 2002

S. O. 1651.— In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O.298, dated the 31st January, 2002, published at pages 986 to 1019 in Part II, Section 3, sub-section (ii) of the Gazette of India, dated the 2nd February, 2002, namely:-

In the Schedule to the said notification:-

- a) at page 1007, against village "Neknam" in column 1, in Survey No./Block No. "Neknam-Koyaliya Road (Btn.S.No.112/2 & 69)" in column 2, for the area "0-06-10" in columns 3,4 & 5, the area "0-06-60" shall be substituted;
- b) at page 1012, against village "Pratapghadh" in column 1, in Survey No./Block No. "111/2/P/1" in column 2, for the area "0-02-80" in columns 3,4 & 5, the area "0-20-80" shall be substituted.

[No L. 14014/8/2001-G P]
SWAMI SINGH, Director

नई दिल्ली, 13 मई, 2002

का. आ. 1652.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत तरल प्राकृतिक गैस के परिवहन के लिए मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती

हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाई जाने के संबंध में श्री ए. के. संघवी,, सक्षम प्राधिकारी, गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, पाइपलाइन परियोजना, 304, एटलान्टा टॉवर, तीसरी मंजिल गुलबाई टेकरा के नजदीक, इंकलाब सोसाइटी के सामने, अम्बावाड़ी, अहमदाबाद-380015, गुजरात को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका . कठलाल		जिला .खेडा	राज्य. गुजरात		
गाँव का नाम		सर्वे नंबर	क्षेत्रफल		
			हेक्टर	आरे	स्केर मी.
1	2	3	4	5	
1 भानर	104	0	04	10	
	830	0	20	70	

उपरोक्त सर्वे नंबर पूर्व में अधिसूचित नहीं है - अधिसूचना क्र. का. आ. ३७१ दिनांक ९.०२.२००२

[फा. सं. एल. 14014/11/02-जी.पी.]

म्हामी सिंह, निदेशक

New Delhi, the 13th May, 2002

S. O. 1652.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of the re-gasified liquefied natural gas (LNG) from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh, a pipeline should be laid by M/s Gas Transportation and Infrastructure Company Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the such pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to laying of the pipeline under the land to Shri A.K.Sanghavi, Competent Authority, GTICL pipeline project, 304, Atlanta Tower, 3rd Floor, Opp.Inqulab Society, Gulbai Tekra, Ambawadi, Ahmedabad-380 015, Gujarat..

SCHEDULE**Taluka : Kathlal****District : Kheda****State : Gujarat**

Name of the Village	Survey No. / Block No.	Area		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. Bhaner	104	0	04	10
	830	0	20	70

The above survey numbers have not been notified earlier - S.O. 371 - dated 9/02/2002

[No L 14014/11/02-G P]
SWAMI SINGH, Director

नई दिल्ली, 13 मई, 2002

का. आ. 1653.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए मैसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाई जाने के संबंध में श्री ए. के. संघवी,, सक्षम प्राधिकारी, गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, पाइपलाइन परियोजना, 304, एटलान्टा टॉवर, तीसरी मंजिल, इंकलाब सोसाइटी के सामने, गुलबाई टेकरा के नजदीक, अम्बावाडी, अहमदाबाद-380015, गुजरात को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका : बावला

जिला : अहमदाबाद

राज्य : गुजरात

गाव का नाम	सर्वे नंबर	क्षेत्रफल		
		हेक्टर	आरे	स्क्वेर मी.
1	2	3	4	5
मगला	10	0	40	10
धनवाड	261	0	2	20

उपरोक्त सर्वे नंबर पूर्व में अधिसूचित नहीं है - अधिसूचना क्र. का. आ. ३७० दिनांक ९.०२.२००२

[फा स एल 14014/12/02-जी पी]
स्वामी सिंह, निदेशक

New Delhi, the 13th May 2002

S. O. 1653.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of re-gasified liquefied natural gas (LNG) from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh, a pipeline should be laid by M/s Gas Transportation and Infrastructure Company Limited,

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification,

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein,

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to laying of the pipeline under the land to Shri A.K Sanghavi, Competent Authority, GTICL pipeline project, 304, Atlanta Tower, 3rd Floor, Opp Inqulab Society, Gulbai Tekra, Ambawadi, Ahmedabad-380 015, Gujarat

SCHEDULE**Taluka : Bavla****District : Ahmedabad****State : Gujarat**

Name of the Village	Survey No. / Block No.	Area		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. Sarala	10	0	40	10
2. Dhanwada	261	0	02	20

The above survey numbers have not been notified earlier - S.O. 370 - dated 9/02/2002

[No. L. 14014/12/02-G.P.]
SWAMI SINGH, Director

नई दिल्ली, 13 मई, 2002

का. आ. 1654.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए मैसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खानेज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन जारी भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाई जाने के संबंध में श्री ए. के. संघवी,, सक्षम प्राधिकारी, गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, पाइपलाइन परियोजना, 304, एटलान्टा टॉवर, तीसरी मंजिल इंकलाब सोसाइटी के सामने, गुलबाई टेकरा के नजदीक, अम्बावाड़ी, अहमदाबाद-380015, गुजरात को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका : दाहोद

जिला : दाहोद

राज्य : गुजरात

गाव का नाम	सर्वे नंबर	क्षेत्रफल		
		हेक्टर	आरे	स्कर मी.
1	2	3	4	5
धामरडा	136	0	17	10

उपरोक्त सर्वे नंबर पूर्व में अधिसूचित नहीं है - अधिसूचना क्र. का. ३६९ दिनांक १०.०२.२००२

[फा. सं. एल. 14014/13/02-जी.पी.]

म्यामी सिंह, निदेशक

New Delhi, the 13th May, 2002

S. O. 1654.— Whereas, it appears to the Central Government that it is necessary in the public interest that for transportation of the re-gasified liquefied natural gas (LNG) from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh, a pipeline should be laid by M/s Gas Transportation and Infrastructure Company Limited;

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to laying of the pipeline under the land to Shri A.K.Sanghavi, Competent Authority, GTICL pipeline project, 304, Atlanta Tower, 3rd Floor, Opp.Inqulab Society, Gulbai Tekra, Ambawadi, Ahmedabad-380 015, Gujarat.

SCHEDULE**Taluka : Dahod****District : Dahod****State : Gujarat****Name of the Village****Survey No. / Block No.****Hectare****Area****Sq.Mtr.**

1	2	3	4	5
1. Dhamarda	136	0	17	10

The above survey number have not been notified earlier - S.O. 369 - dated 9/02/2002

[No L 14014/13/02-G P]
SWAMI SINGH, Director

नई दिल्ली, 16 मई, 2002

का. आ. 1655.— केन्द्रीय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक राजस्थान राज्य में चाकसू से होती हुई अपरिष्कृत तेल के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-चांकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्द्धन के कार्यान्वयन हेतु एक पाइपलाइन बिछाई जानी चाहिए ; और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है उपयोग के अधिकार का अर्जन किया जाय; अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ; कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री सुनील शर्मा, सक्षम प्राधिकारी, सलाया-मथुरा पाइपलाइन (संवर्द्धन) परियोजना, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, 33, मुक्तानंद नगर, गोपालपुरा बाई-पास, जयपुर राजस्थान - 302 018 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : देसूरी		जिला : पाली		राज्य : राजस्थान	
गाँव का नाम	खसरा सं.	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
बोरडी	632/1	0	15	13	
पिलोवनी	822/1	0	00	21	
गुड़ा दोलजी	137/1	0	27	56	

[फा स आर. 25011/29/2001/आ आर 1]

एम एम कमवान, अवर मन्चिव

New Delhi, the 16th May, 2002

S. O. 1655.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan, a pipeline may be laid by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam – Chaksu, Chaksu – Panipat and Chaksu – Mathura sections of Salaya – Mathura Pipeline System" ;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification,

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section – 3 of the said Act as published in the Gazette of India, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri Sunil Sharma, Competent Authority, Salaya-Mathura Pipeline (Augmentation) Project, Indian Oil Corporation Limited, 33, Muktanand Nagar, Gopal Pura Bye-Pass, Jaipur 302 018.

SCHEDULE

Tehsil : DESURI		District : PALI		State : RAJASTHAN	
Name of the Village	Khasara No	Area			
		Hectare	Are	Sq.mtr	
1	2	3	4	5	
BORDI	632/1	0	15	73	
PILOWANI	822/1	0	00	21	
GURA DOLJI	137/1	0	27	56	

[F No R-25011/29/2001 OR-I]
S S KEMWAL, Under Secy

नई दिल्ली, 16 मई, 2002

शुद्धिपत्र

का.आ. 1656.— भारत के राजपत्र, भाग II खंड 3, उपखंड (ii) तारीख 18.8.2001 के पृष्ठ 4325 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2073 दिनांक 09.08.2001 में गांव गुड़ा दोलजी से संबंधित पंक्ति 23 के खसरा सं को निम्नतम

पदे :

तहसील : देसूरी

जिला : पाली

राज्य : राजस्थान

के स्थानपर				पदे			
क्षेत्रफल				क्षेत्रफल			
खसरा सं	हेक्टेयर	एयर	वर्ग मीटर	खसरा सं	हेक्टेयर	एयर	वर्ग मीटर
	0	29	00	141	0	29	00

[फा स आर 25011/29/2001/ओ.आर. I]

एस एस केमवाल, अवर सचिव

श्रम मंत्रालय

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. लि. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, मुम्बई के पंचाट (संदर्भ संख्या 21/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-04-02 को प्राप्त हुआ था।

[सं. एल-30012/73/96-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 23rd April, 2002

S.O. 1657.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 21/2000) of the Central Government Industrial Tribunal No 1, Mumbai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of ONGC Ltd and their workman, which was received by the Central Government on 22-4-2002

[No L-30012/73/96-IR (C-1)]

S S GUPTA, Under Secy

ANNEXURE**BEFORE THE CENTRAL GOVT INDUSTRIAL TRIBUNAL NO 1, MUMBAI**

Present Shri Justice S C Pandey
Presiding Officer

Reference No CGIT 21/2000

Parties : Employers in relation to the management of
ONGC Ltd
AND
Their Workmen

Appearances :

For the Management	Absent
For the Workman	Absent
State	Maharashtra

Mumbai, dated the 8th day of April, 2002

AWARD

1 The Central Government has referred the following question to be answered by this Tribunal in exercise of its powers under clause (d) of sub-section (1) and sub-section 2 A of Section 10 of the Industrial Disputes Act, 1947 (The Act for short)

2 Nobody is present for all India Divers' Association today Nobody is also present for the management and other parties The Divers' Association aforesaid is not appearing before this Court from 8-2-2002 to 8-4-2002. a perusal of order sheet also shows that on previous dates

nobody represented the aforesaid Divers' Association and most of the time all the parties were absent In view of this matter it appears that the main contesting parties are not interested in prosecuting this reference Accordingly, this tribunal answers this reference saying that there appears to be no dispute to be answered by this tribunal

S C PANDEY, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आल इंडिया रेडियो के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी-5/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-4-2002 को प्राप्त हुआ था।

[सं. एल-42012/47/99-आई आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1658.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref No GIT-5/99) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of All India Radio and their workman, which was received by the Central Government on 22-4-2002

[No L-42012/47/99-IR (D U)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT INDUSTRIAL TRIBUNAL, NAGPUR**

PRESENT SHRI B G SAXENA, PRESIDING OFFICER

REFERENCE NO CGIT 5/99

THE STATION ENGINEER, ALL INDIA RADIO
AND

SHRI ASHOK DODHU SONAWANE

AWARD

The Central Government Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No L-42012/47/99/IR (DU) dated 27-7-99 on following schedule

SCHEDULE

“Whether the action of the management of All India Radio Jalgaon through its Station Engineer in terminating the services of Shri Ashok Dodhu

Sonawane is legal and justified ? If not, to what relief the workman is entitled ?”

The workman Ashok S/o Dodhu Sonawane has submitted Statement of Claim that he was working as Casual Labour at All India Radio Station, Jalgaon w e f 19-4-85 as Casual Labour. He was paid Rs 10 85 ps per day as wages. He was doing the job of Security Guard. He was also putting the signature on the Muster Roll. He worked continuously from 19-4-85 to March, 1988. He was not allowed to work in the month of April, 1988 and his service was terminated illegally. He raised the dispute before ALC, Nagpur on 10-9-98. He has claimed reinstatement with full back wages.

The management contested the case that Ashok D Sonawane worked during the undernoted period

- (1) From 28-4-83 to 13-6-83
- (2) From 28-4-85 to 23-7-85
- (3) From 27-7-85 to 17-11-85
- (4) From 20-11-85 to 5-1-86

In the year 1987 he worked for 68 days. The management claimed that the dispute has been raised after ten years.

The workman did not work for 240 days continuously during any calendar year.

Both the parties submitted oral and documentary evidence. They have also filed Written Arguments.

I have considered the entire oral and documentary evidence on record and the arguments of the parties.

In the affidavit the workman has admitted that he was getting payment Rs 10 85 ps per day as wages. It is, therefore, clear that he was not the regular employee. He was being paid only for the days he worked. He was getting daily wages.

In cross-examination on 12-9-2001 the workman admitted that no Appointment Letter was issued to him. He further says that he worked for 6 months from 28-4-83. There was 15 days break in his service period. He again worked for 3 months. He says that he was also doing the work as Gardener (Mali). He was getting daily wages. From Dec 1987 he was not provided any work.

The affidavit filed by the witness of management Ramesh D. Wagulde shows that the workman did not work for 240 days in any calendar year.

He worked for undernoted period

1983	—	14 days
1985	—	214 days
1986	—	5 days (1-1-86 to 5-1-86)

Again in 1986 from 5-5-86 to 20-12-86 — 120 days

In 1987	—	69 days
1988	—	9 days

In cross-examination the witness R D. Wagulde says

that no person bearing name Dilip Bagde worked as helper on T V Centre. He does not know whether workman Ashok Sonawane was noting down the time of his arrival and departure in any Register. The workman did not work for 240 days in any calendar year.

The management has submitted Ruling B. Satyanarayan Versus Tirumala Tirupati Debsthan LAB IC 2428, 99. It is held that “Casual/Daily wage employees cannot claim the relief of regularisation. When the workman is engaged on casual and daily basis, it is permissible for the administration to dispense with their services when found that there was no need to continue the service of the workman.”

In this case the workman did not work for 240 days continuously in any calendar year so he is not entitled to any relief claimed by him.

In AIR 1981 Supreme Court, page 1253 Mohanlal versus the management of M/s. Bharat Electronics Ltd., it is held that “before a workman can complain of retrenchment being not in consonance with Section 25-F he has to show that he has been in continuous service for not less than one year under that employer who has retrenched him from service.”

There is no evidence on record to show that the workman has worked 240 days continuously during the period mentioned by him in his claim. He is therefore not entitled to any relief claimed by him.

ORDER

The action of the management of All India Radio, Jalgaon through its Station Engineer in terminating the services of Shri Ashok Dodhu Sonawane is legal and justified.

The workman is not entitled to any relief claimed by him.

The reference is answered accordingly.

B G SAXENA, Presiding Officer

Dated 12-3-2002

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1659.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आल इंडिया रेडियो के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी-4/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-4-2002 को प्राप्त हुआ था।

[सं. एल-42012/90/99-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi the 22nd April 2002

S.O. 1659.— In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the award (Ref No CGIT-4/99) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of All India Radio and their workman, which was received by the Central Government on 22-4-2002

[No L-42012/90/99-IR (D U)]

KULDIP RAI VERMA Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT INDUSTRIAL
TRIBUNAL, NAGPUR

PRESENT SHRI B G SAXENA, PRESIDING OFFICER

REFERENCE NO CGIT 4/99

THE STATION ENGINEER, ALL INDIA RADIO

AND

SHRI PRAKASH SURESH BARI

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No L-42012/90/99/IR (DU) dated 11-8-99 on the following schedule

SCHEDULE

“Whether the action of the management of All India Radio, Jalgaon through its Station Engineer in terminating the services of Shri Prakash Suresh Bari is legal and justified? If not, to what relief the workman is entitled?”

Prakash Suresh Bari has submitted Statement of Claim that he was working as Casual Labour at All India Radio Station, Jalgaon w.e.f 6-8-87 He was paid Rs 10 85 ps per day as wages His name was sent through Employment Exchange

He further says that he was not allowed to work after 2-6-90 and his service was illegally terminated Some artificial breaks were shown in his work in the Muster Roll He claimed reinstatement with full backwages

The management of All India Radio submitted Written Statement through R D Wagulde, Station Engineer, All India Radio Jalgaon and contested the case

The management mentioned in Written Statement that the workman Prakash Suresh Bari was engaged as labourer He worked for the undernoted period

- | | | |
|----------|---|----------|
| (1) 1987 | — | 36 days |
| (2) 1988 | — | 156 days |

The workman did not work for 240 days continuously during any calendar year He was called when the work was available and was paid for the days he worked He cannot claim regularisation or reinstatement

I have considered the oral and documentary evidence produced by both the parties The written and oral arguments of the parties were also considered

Prakash S/o Suresh Bari has submitted affidavit that he used to work as casual labourer from 8 a m to 5 p m He worked from 6-8-87 to 2-6-90 After 2-6-90 he was not allowed to work at Sirsoli Transmitter Center In cross-examination he has changed his statement and stated that he worked from 1988 to 1991 He denied the suggestion that he worked for 36 days in 1987 He further says that he discontinued to work from 1991 So this witness has himself changed the duration of his work In statement of Claim he has mentioned that he worked from 6-8-87 to 2-6-90 Therefore his statement is self-contradictory

The workman further admitted that no Appointment Letter was issued to him In the affidavit he mentioned that he was paid Rs 10 85 ps per day The statement of the workman therefore clearly shows that he was not getting regular salary on monthly basis He was getting wages for the days he worked

The statement of Ramesh Wagulde, Station Engineer was recorded on 19-10-2001 He stated that Prakash Bari was working on daily wages He was issued Gate Pass for one month from 5-9-88 to 4-10-88 He was not working as a Gardener as there was no garden at Sirsoli Transmitter Section He worked for 36 days in 1987 In 1988 he worked for 156 days He further says that no Muster-Roll is maintained for casual labour He also denied the suggestion that Prakash Bari worked for 240 days continuously in any calendar year Prakash Bari has submitted his Identity Card and Gate Pass from 5-9-88 to 4-10-88 It shows that he had worked for one month The attendance record also shows that he worked for 6 days from 1-11-87 to 9-11-87 He worked for 6 days and was paid Rs 65 The attendance record shows that there were a gaps in his work and he was paid on daily basis

In the above circumstances the workman did not work for 240 days continuously in any calendar year There is nothing on record to show that he was appointed according to the prescribed procedure against any clear vacancy In these circumstances the ruling FLR 1998, Page-524, Employees State Insurance Corporation *versus* T Sankar Singh Byali of Karnataka High Court and AIR 1985 Calcutta 200 Himjit Construction *versus* Tarun Sankar are not applicable in this case The management has submitted the records to show that the workman was getting Rs 10 85 ps per day for the days he worked

The management has submitted ruling B Satyanarayan *versus* Tirumala Tirupati Debasthan L A B I C

2428. 1999 that a casual worker who is engaged on daily basis cannot claim relief of regularisation. The administration can dispense with his services when found that there is no need to continue the services of the workman.

In view of the above facts the workman has failed to prove that he worked for 240 days continuously in the year 1987 or 1988. No other record to show that he worked continuously upto 2-6-90 has been produced in this Court. The workman is therefore not entitled to any relief claimed by him.

ORDER

The action of the management of All India Radio, Jalgaon through its Station Engineer in terminating the services of Shri Prakash Suresh Bari is legal and justified.

The workman Prakash Suresh Bari is not entitled to any relief claimed by him.

The reference is answered accordingly.

Dated 13-3-2002

B G SAXENA, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1660.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शिपिंग कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/105 ऑफ 99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-4-2002 को प्राप्त हुआ था।

[सं. एल-42012/229/98-आई.आर. (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1660.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No CGIT-2/105 of 99) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Shipping Corpn of India and their workman, which was received by the Central Government on 22-4-2002.

[No L-42012/229/98-I R (D U)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT INDUSTRIAL
TRIBUNAL, NO II, MUMBAI

PRESENT

SHRI S N SAUNDANKAR
PRESIDING OFFICER

REFERENCE NO CGIT-2/105 of 1999 EMPLOYERS IN RELATION TO THE MANAGEMENT OF

THE GENERAL MANAGER (P&A).

SHIPPING CORPN OF INDIA

The General Manager (P & A).

Shipping Corpn of India Ltd.

Shipping House.

Nariman Point.

Mumbai-400021

AND

There Workmen

Mr A S Ghodke.

Harichaya A/12.

Chidda Road.

Dombivli (E).

Distt Thane-421201

APPEARANCES

For the Employer Mr R S Pai
1/b M/s Mulla & Mulla &
Craigie Blunt & Caroe.
Advocates

For the workmen Mr Dilip Watharkar
Advocate.

Mumbai, Dated 4th February, 2002

AWARD

The Government of India, Ministry of Labour, by its Order No L-42012/229/98/IR (DU), dtd 16/20-4-1999, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, have referred the following dispute to this Tribunal for adjudication

“Whether the action of the management of Shipping Corporation of India Ltd in terminating the services Mr A S Ghodke, an ex-wireman is legal and justified? If not, to what relief the workman is entitled?”

2 Shri A L Ghodke was appointed as Wireman (Petty Officer) in the Shipping Corporation of India in the year, 1976. Vide Statement of Claim (Exhibit-6) Ghodke contended that he continuously worked in the company from 5-4-1976 to 24-7-1994. His service record was unblemished. It is his contention that as a routine he was directed to resume duties at Vishakapattam. On joining there he was admitted in the hospital due to sickness and that on returning from Vishakapattam, he had joined his original post at Bombay. It is contended that after joining the duty at Bombay he was admitted in Jaslok Hospital and that on 11-3-94 Dr D P Modv issued certificate mentioning that he is permanently unfit for the work. It is contended with the permission of the company, he had taken treatment of Dr L P Bhandekar who in turn, after treating him, issued fitness

certificate on 14-6-94. He had shown the said certificate to the company, however, they declined to accept it as genuine and that on the basis of the certificate issued by Dr. Mody dtd 11-3-94 management terminated him on 24-7-94 saying he was unfit to work as seaman. It is contended Ghodake had raised dispute on his termination with the R L C (C) who in turn tried conciliation, but, failed. Therefore he contended his termination being unlawful, management be directed to reinstate him with full back wages.

3 Management, Shipping Corporation, resisted the claim of Ghodake, by filing Written Statement (Exhibit-7) contending that Ghodake being a seaman and wireman (Petty Officer) appointed on 5-4-76 was declared permanently unfit for sea-service on account of he being found suffering from Ant Wall Myocardial Infarction with Ejection Factor of 20%—28%. It is contended that Ghodake being seaman question of his termination of service would not be covered by the provisions of the Industrial Disputes Act, 1947. It is contended under the provisions of sub-section 9 of Section 150 of The Merchant Shipping Act, 1958, dispute between a seaman or any class of seamen or any union of seamen and the owners of the ship would fall outside the purview of the Industrial Disputes Act and therefore the reference is not maintainable, for want of jurisdiction. Since the Tribunal has to be constituted in accordance with the Merchant Shipping Act. It is contended that since Ghodake seaman, was declared unfit by the panel Dr. Mody, under the Shipping Act, he being unfit to work as a seaman therefore he has been rightly terminated on 24-7-94, on settling his full and final payment. Consequently management contended that the reference is not maintainable and that their action on termination of Ghodake, is lawful.

4 On the basis of the pleadings my Learned Predecessor framed issues (Exhibit-8) and in that context Ghodake filed affidavit by way of Examination-in-Chief (Exhibit-11) and closed evidence vide purshis (Exhibit-32). Assistant General Manager, Mr. Netti of Management, Corporation filed affidavit (Exhibit-33) and management closed evidence vide purshis (Exhibit-36).

5 Ghodake filed written submission (Exhibit-37) and the management at (Exhibit-38). On hearing the counsels for the parties at length and going through the record as a whole and the written submissions, I record my findings on the following issues for the reasons mentioned below.

Issues	Findings
1 Whether the Tribunal has jurisdiction to decide the reference?	No
2 Whether the action of the management of Shipping Corpn. of India in terminating the services of Mr A S Ghodake, an Ex-wireman is legal and justified?	Does not survive
3 If not, to what relief the workman is entitled to?	As per order below

REASONS

6 At the outset the Learned Counsel Mr. Pai for the management company inviting attention of this Tribunal to Written Submission (Exhibit-38) pointed out that Ghodake being a 'seaman' dispute between seaman and the owner of ships is not maintainable under the provisions of the Industrial Disputes Act, as a separate tribunal is to be constituted under clauses (1) & (9) of the Merchant Shipping Act, 1958. He submits that in view of the barring provision on entertaining the reference in connection with seaman, this Industrial Tribunal has no jurisdiction to entertain the same and therefore for want of jurisdiction, the reference is not maintainable.

7 So far jurisdiction to entertain the reference by the Industrial Tribunal is concerned, it is necessary to go through the provisions of the Merchant Shipping Act, 1958 and the Industrial Disputes Act. Before considering those provisions let us see "whether Shri Ghodake falls within the category of seaman". Section 3(42) of the Merchant Shipping Act, 1958 defines 'seaman' means "every person (except a master, pilot or apprentice) employed or engaged as a member of the crew of a ship under this Act". Ghodake in his cross-examination, para 10 admitted that he was appointed as fleet personnel with the employer. He was member of the National Union of Sea Fitters of India (NUSI) and was Petty Officer. He further admits that after appointment he was working in the ship. In 1987 he worked in Vishwas Kaumuti as a wireman. Thereafter at Sagar Santhana till 1989, worked at Kalidas till November, '90. Thereafter in the ship Lowfinyl up to December '91 and thereafter in other ships. He thus in unequivocal terms admits that he was working as seaman with the cargo ship.

8 Once it is clear that Ghodake was seaman under section 3(42) of the Merchant Shipping Act, point crops up Whether dispute of seaman and the owner of the ship lie in the industrial tribunal i.e. "Whether the Industrial Tribunal can entertain such a dispute and decide under the Industrial Disputes Act?" Section 150(1) of Shipping Act, 1958 states

"Where the Central Government is of opinion that any dispute between seaman or any class of seaman or of any union of seamen and the owners of the ships in which such seamen are employed or are likely to be employed exists or is apprehended and such dispute relates to any matter connected with or incidental to the employment of the seamen the Central Government may by notification in the Official Gazette, constitute a tribunal consisting of one or more persons and refer the dispute to the tribunal for adjudication."

Clause 9 specifically bars the Industrial Tribunal to entertain such a dispute under the Industrial Disputes Act. By written submissions (Exhibit-37) workman pointed out that the Corporation have their own rules and regulations and that he came to know the rules when those were

produced When Ghodake was seaman governed under the Merchant Shipping Act, 1958 and that it specifically bars the Industrial Tribunal from entertaining a dispute of seaman with the owner of ships, it can safely be said that this Industrial Tribunal has no jurisdiction to decide the reference Consequently Issue No 1 is answered in the negative Since the reference is not maintainable for the foregoing reasons issue Nos 2 & 3 do not survive, and hence the order

ORDER

Reference stands disposed of for want of jurisdiction
S N SAUNDANKAR, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1661.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 94/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-4-2002 को प्राप्त हुआ था।

[सं. एल-40012/41/2001-आई.आर (डी यू.)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1661.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 94/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt and their workman, which was received by the Central Government on 22-04-2002

[No L-40012/41/2001-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

**RUDRESH KUMAR
PRESIDING OFFICER**

I.D. NO : 94/2001

Ref. No : L-40012/41/2001/IR (DU) dated : 30-5-2001

BETWEEN

**Sh. Satish S/o Sh. Hira Lal C/o Rajbir Singh Solanki,
80, Laries Complex, Namter, Agra, (U.P.)-282001**

AND

**Chief Engineer (DT), OAC-I, Deptt. of Telecom,
Tax Bhawan, Agra-282001**

AWARD

By order No L-40012/41/2001—IR (DU) dated 30-5-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Satish and Chief Engineer (DT), OAC-I and Assistant Engineer, (AC-II) Deptt of Telecom, Agra for adjudication

The reference under adjudication is as under

“Whether the action of the management of Chief Engineer (DT), OAC-I and Assistant Engineer, DAC-II Deptt of Telecom, Agra in Terminating the services of their workman Sh Satish we f 26-6-93 is just and legal ? If not, to what relief the workman is entitled ?”

2 Reference order dated 30-5-2001 mentions communicating address of the workman His identity is still unknown as from which place he hails or what is his age and other particulars

3 From perusal of file, it appears that notices were sent to the parties on registration of industrial dispute case on 25-6-2001 No response came from the workman and the envelope sent to the management was returned with endorsement that there existed no Tax Bhawan as mentioned in the reference order Registered notices were sent again on 1-8-2001 Postal endorsement indicated that there is no office of the Chief Engineer in the Tax Bhawan However, the statement of claim was filed by one Mr H S Goyal Notice was again sent to the management fixing 11-10-2001 which returned unserved The workman absented on this day i e 30-8-2001 On 11-10-2001, 11-12-2001, 30-1-2002, 5-3-2002 and 16-4-2002 none of the parties appeared Two letters were sent to the Ministry to provide identity and correct address of the workman, so as he may be contacted His authorised representative did not care to attend Likewise, none appeared on behalf of the management so far About a year time is wasted and there appears no probability of getting correct address of the workman as well as of the management In these circumstances adjudication on merit is not possible

4 Accordingly, the case is closed treating as a case of “no claim award ”

LUCKNOW RUDRESH KUMAR, Presiding Officer
18-4-2002

नई दिल्ली, 22 अप्रैल, 2002

का. आ. 1662.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्टल प्रिंटिंग प्रैस के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 299/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-4-2002 को प्राप्त हुआ था।

[सं एल-40012/168/99-आई.आर. (डी.यू.)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1662.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 299/2001) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Printing Press and their workman, which was received by the Central Government on 22-04-2002

[No L-40012/168/99-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present

Shri S K Dhal, OSJS, (Sr Branch),
Presiding Officer, C G I T-cum-Labour Court,
Bhubaneswar

Tr. INDUSTRIAL DISPUTE CASE NO. 299/2001

Date of conclusion of hearing—12th April 2002

Date of Passing Award—15th April 2002

Between

The Management of the Manager,
Postal Printing Press, Gadagopinath Pur,
Rasulgarh, Bhubaneswar

1st Party-Management

(AND)

Their Workmen, Shri Kumarbara Behera,
At/Po Naharkanta, Via Baliana,
PS Baliana, Dist Khurda

2nd Party -Workman

Appearances

Shri Jogeswar Nahak, Manager,
Postal Printing Press

For the 1st Party Management

Shri Kumarbara Behera

For Himself-Workman

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of sub-

section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No L-40012/168/99/IR (DU) dated 21-10-1999

“Whether the action of the Management of Postal Printing Press, Bhubaneswar in not reinstating Shri Kumarbara Behera, Ex-Pump Operator in the services is legal and justified ? If not, what relief he is entitled to ?”

2 The parties to this dispute are the Manager, Postal Printing Press, Gadagopinathpur, Rasulgarh, Bhubaneswar, (hereinafter called as the 1st Party-Management) and their workmen, Shri Kumarbara Behera, At/Po Naharkanta, Via Baliana, Dist Khurda, (hereinafter called as the 2nd Party-Workman)

3 The case of the 2nd Party-Workman runs thus

He was appointed as Pump Driver under the 1st Party-Management from the year 1983 to 1993. He worked satisfactorily but he was disengaged on the strength of the order, dated 15-1-1993 without complying the requirements required under the Industrial Disputes Act. No enquiry was made against him. No notice was given before retrenchment nor any compensation was paid to him. So he raised a dispute. Reconciliation failed. Hence this present reference. The 2nd Party has prayed to declare his termination as illegal and for reinstatement with full back wages.

4 The 1st Party-Management has filed their Written Statement. In the Written Statement the 1st Party-Management admitting the engagement of the 2nd Party as Pump operator has taken the stand that his engagement was for temporary period. When the permanent Pump Operator was appointed after due selection the 2nd Party was disengaged. He has not worked 240 days in a calendar year. The further stand taken by the 1st Party-Management is that the 2nd Party approached the Hon'ble Tribunal against the selection procedure but failed. So, according to the 1st Party-Management this reference is not maintainable having been adjudicated by the Central Administrative Tribunal, Cuttack Bench.

5 On the pleadings of the above parties the following Issues have been settled

- 1 Whether the workman has worked for 240 days ?
- 2 Whether the action of the Management in not reinstating the workman in service is justified ?
- 3 What relief the workman is entitled to ?

6 Both the parties have declined to adduce any oral evidence. They have submitted their argument basing on their documents. On behalf of the 2nd Party, 8 Nos. of documents have been exhibited, i.e. from Ext -1 to Ext 8 and on behalf of the 1st Party-management, three numbers of documents have been exhibited i.e. from Ext -A, B and C.

FINDINGS**ISSUE NO. I**

7 The grievance of the 2nd Party is that, he has worked for more than 240 days as Pump Operator in the year 1983 to 14-1-1993. In his Claim Statement he has stated that, he worked from 1983 to 1984 and 1989 to 1990 as Pump Driver Ganganagar Post Office and from 1-4-91 to 23-9-1991 at Kedargouri sub-Post Office and from 25-5-1992 to 15-1-1993 in the Postal Printing Press, G G P Postal colony. According to him he has worked for more than 240 days. On the other hand the 1st Party-Management has submitted that, he has never worked for 240 days in a calendar year. Ext -1 is the appointment order issued by the 1st Party-Management in favour of the 2nd Party appointing him as a casual labourer to work as Pump Operator at Postal Printing Press Colony Gadagopinath Pur. This order has been issued on 19-5-1992. Ext -2 is the termination order. No document has been filed on behalf of the 2nd Party about his appointment as Pump Driver from 1983 to 1992. Ext -3, 4 are the copies of the certificates given to the 2nd Party by some officers of the 1st Party-Management in support of his case that he had worked from 1983 to 1984 and from 1989 to 1990. Ext -7 is a certificate granted in support of the case of the 2nd Party that he had worked from 25-5-1992 to 15-1-1993 excluding 22-8-1992. Ext -8 is the copy of the certificate issued on 20-4-1992. Though, the 2nd Party has claimed and has argued that he had worked earlier but the reference has been made for the period when he was working in the Postal Printing Press. As I have already stated there is no order of appointment in possession of the 2nd Party to support his claim that he was appointed since 1983, the copies of the certificates granted to him by some of the officers of the 1st Party-Management in my opinion are not sufficient to support his case that, he was appointed since 1983. The 1st Party-Management has relied on the Ext -A, B and C. Ext -B is same as Ext -1, which reveals that the 2nd Party was appointed as Pump Driver for a temporary period and the order is dated 19-5-1992. Ext -C is the same of Ext -2, which reflects that, the 2nd Party was disengaged from 15-1-1993. Ext -A is the copy of the judgement passed by the Central Administrative Tribunal, Cuttack Bench, in O A Case No. 95/2000. In that case, the 2nd Party was the petitioner and the Management was the Opp Parties. The 2nd Party had prayed to declare the selection made for the post of Pump Driver as illegal and for quashing the same. His prayer was refused. The Hon'ble Tribunal has been pleased to observe that the engagement of the petitioner was not through recruitment rules. So the 2nd Party was given chance to attend the interview. But he found unsuitable. The Tribunal were also pleased to observe that, they can not act as Appellate Court against the decision of the Selection Committee. So when the engagement of the 2nd Party was for temporary period and he was engaged without coming through the process

of recruitment rules, he can not claim for the post particularly when he has failed to prove that he had worked for more than 240 days in a calendar year. Hence this Issue is answered accordingly.

ISSUE NO. II

8 It is an admitted case that, the 2nd Party was appointed for a temporary period with terms and condition that the period of engagement should not be counted for future absorption in the grade. Moreover when he has failed to prove that he had worked for 240 days in a calendar year he can not claim for the post. However he was given chance to come through the process of recruitment rules when advertisement was made and accordingly, he appeared before the selection committee but he was found unsuitable. He challenged the selection before the Central Administrative Tribunal but failed. I agree with the observation made by the Hon'ble Central Administrative Tribunal that no Tribunal can act as an Appellate Authority on the selection committee. The engagement of the 2nd Party was purely on temporary and no notice is required under the Industrial Tribunal Act for his disengagement. The 1st Party-Management is not bound to reinstate him when the 2nd Party was found unsuitable by the selection committee. Reliance has been placed by the 2nd Party in the case of President, Cement Corporation of India Workers Union—Versus—Presiding Officer Labour Court and Others reported in 2001 LLR 218, First Flight Couriers Limited.—Versus—Karnataka Courier & Cargo General Employees Union CITU Office and Another reported in 2001 LLR 221, Samishta Dube—Versus—City Board, Etawah & Another reported in 1999 LLR SC 480 and in the case of Ved Prakash and Executive Engineer, Construction, Public Health Division, Faridabad and Another, reported in LLJ 2001 1224. In the first case it was held that, the Industrial Tribunal is empowered to add or implead new persons as necessary or proper parties and when plea is taken that the workers were engaged through contractors it becomes necessary to implead the contractors as a party. So, the fact of the first case is quite different from the facts of the case of the 2nd Party. In other decision, it was held that a workman can approach the Industrial Tribunal by filing interlocutory application for interim order in a reference made by the Government in the matter relating to transfers. So, the fact of this case also differs from the facts of the case of the 2nd Party. So, the citations filed by the 2nd Party would not be applicable in the present case. So, the action of the 1st Party-Management of Postal Printing Press in not reinstating Shri Kumarbara Behera is not illegal and unjustified. Hence, this Issue is answered accordingly.

ISSUE NO. III

9 In view of my findings given in respect of Issue No. I and II the 2nd Party is not entitled for any relief.

10 Reference is answered accordingly.

S K. DHAL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1663.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैन्टोन्मेन्ट बोर्ड के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 188/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-13012/7/96-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1663.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 188/97) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cantonment Board and their workman, which was received by the Central Government on 23-04-2002

[No L-13012/7/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M. GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

CASE NO I D 188/97

General Secretary, Lok Mazdoor Sangathan (Regd), 63-C,
Kailash Nagar, Model Town, Ambala City

Applicant

Versus

The Executive Officer,
Cantonment Board,
Ambala Cantt

Respondent

Representatives

For the Workman

Sh Dhanu Ram

For the Management

None

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-13012/7/96-I R D U dated 22nd October 1997 has referred the following disputes to this Tribunal for adjudication

“Whether the action of the Cantonment Executive Officer, Ambala Cantt in denying overtime payment to Sh Ravakash Singh, Night Chowkidar for working born as night Chowkidar and Peon during

the period Aug. 1982 to 30-4-94 is just and legal ? If not, to what relief the workman is entitled to and from which date ?”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry, Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1664.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 158/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14011/4/99-आई आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1664.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 158/99) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 23-04-2002

[No L-14011/4/99-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE NO I D 158/99

The Chairman, Western Command Military Farm Workers Union, Bir Sarangwal, PO Jassomajra, Distt Nawashar (Pb) 144514

Applicant

Versus

1 The Officer Incharge, Military Farm, Bir Sarangwal, PO Jassomajra, Distt Nawashar (Pb) 144514

2 The Director, Military Farms, Western Command, H Q Chandimandir-134107

Respondent

Representatives

For the Workman

Sh Dhanu Ram

For the Management

Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-14011/4/99-I R (D U) dated 21st July, 1999 has referred the following disputes to this Tribunal for adjudication

“Whether the action of Officer Incharge, Military Farm, Birsarangwal, in denying wages of Tractor Driver to Sh Bhupinder Singh Farm Hand, for the period 1991 to 1998 is legal & justified ? If not to what relief the workman is entitled ?”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry. Central Govt be informed.

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1665.— औद्योगिक विवाद आर्धानयम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलाट्री फॉर्म के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 111/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14011/12/98-आइ.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1665.— In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the award (Ref No 111/99) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 23-04-2002

[No L-14011/12/98-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE NO 1D 111/99

The Chairman, Western Command Military Farm
Workers Union, Bir Sarangwal, PO Jassomajra, Distt
Nawashar (Pb) 144514 Applicant

Versus

- 1 The Officer Incharge, Military Farm, Bir Sarangwal,
PO Jassomajra, Distt Nawashar (Pb) 144514
- 2 The Director, Military Farm, Western Command, H Q
(Farm Br) Distt Nawashar (Pb) 144514

Respondent

Representatives

For the Workman	Sh Dhami Ram
For the Management	Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-14011/12/98-IR (DU) dated 26th April, 1999 has referred the following disputes to this Tribunal for adjudication

“Whether the action of Officer Incharge, Military Farm, Birsarangwal, in denying wages of Tractor Driver to Sh Ravinder Singh, Farm Hand, for the period he worked as Tractor Driver during 1991 to 1998 is legal and justified If not to what relief the workman is entitled ?”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement the No dispute award is returned in the present case to the Ministry. Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1666.— औद्योगिक विवाद आर्धानयम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलाट्री फॉर्म के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 95/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14011/13/98-आइ.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1666.— In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the award (Ref No 95/99) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 23-04-2002

[No L-14011/13/98-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE NO ID 95/99

The Chairman, Western Command Military Farm
Workers Union, Birsarangwal, PO Jassomajra, Distt
Nawashar (Pb) 144514 Applicant

Versus

- 1 The Officer Incharge, Military Farm, Bir Sarangwal,
PO Jassomajra, Distt Nawashar (Pb) 144514
- 2 The Director, Military Farm, H Q (Farm Br)
Chandimandir 134107 Respondent

Representatives

For the Workman Sh Dhanu Ram
For the Management Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide
Notification No L-14011/13/98-IR (DU) dated 16th March,
1999 has referred the following disputes to this Tribunal
for adjudication

"Whether the action of Officer Incharge Military
Farm, Birsarangwal, in denying wages of Tractor
Driver to Sh Santokh Singh, Farm Hand, for the
period he worked as Tractor Driver during 1991 to
1998 is legal & justified. If not to what relief the
workman is entitled?"

2 The Representative of the workman made a
statement that he withdraw the present reference in the
Lok Adalat In view of this statement, the No dispute award
is returned in the present case to the Ministry. Central
Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1667.— औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के
प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध
में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,
चण्डीगढ़ के पंचाट (संदर्भ संख्या 123/99) को प्रकाशित करती है,
जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14011/21/98-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1667.— In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Central
Government hereby publishes the award (Ref No 123/99)

of the Central Government Industrial Tribunal/Labour
Court, Chandigarh now as shown in the Annexure in the
Industrial Dispute between the employers in relation to
the management of Military Farm and their workman, which
was received by the Central Government on 23-04-2002

[No L-14011/21/98-IR (DU)]

KULDIPRAI VERMA Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE NO ID 123/99

The Secretary, Western Command Military Farm Workers
Union C/o Military Farm, Ambala Cantt (Haryana)-133001
Applicant

Versus

- 1 Officer Incharge, Military Farm, Ambala Cantt
(Haryana) 133001
- 2 Director, Military Farms, Western Command, Head
Quarter, Chandimandir-134107 Respondent

Representatives

For the Workman Sh Dhanu Ram
For the Management Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide
Notification No L-14011/21/98-IR (DU) dated 6/5/1999 has
referred the following disputes to this Tribunal for
adjudication

"Whether the action of the Director Military Farms,
Western Command Head quarters Chandimandir and
Officer Incharge, Military Farm, Ambala Cantt in still
continuing the disciplinary proceedings which were
initiated in the year 1988 against Sh Nckshed S/o
Sh Daya Ram, Farm Hand, Military Farm, Ambala
Cantt is legal and justified? If not, to what relief the
workman is entitled?"

2 The Representative of the workman made a
statement that he withdraw the present reference in the
Lok Adalat In view of this statement, the No dispute award
is returned in the present case to the Ministry. Central
Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1668.— औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के
प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 110/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14011/25/98-आई.आर.(डी-यु)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 110/99) of the Central Government Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farms and their workman, which was received by the Central Government on 23-4-2002

[No L-14011/25/98-IR(DU)]
KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No ID 110/99

The President, Military Dairy Farms
Workers Union (Regd)

C/o Military Dairy Farms,

Ambala Cantt (Haryana)-133001

Applicant

Versus

1 Officer Incharge, Military Farm
Ambala Cantt (Haryana)-133001

2 The Director Military Farm
Western Command,
H Q Chandimandir

Respondent

Representatives

For the workman Sh Dhami Ram

For the management Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt, Ministry of Labour vide Notification No L-14011/25/98 IR (DU) dated 26th April 1999 has referred the following disputes to this Tribunal for adjudication

“Whether the action of the Director Military Farms, Western Command, Head quarters, Chandimandir and Officer Incharge, Military Farm, Ambala Cantt in not completing the disciplinary proceedings which were initiated in the year 1988 against Sh Sher Singh, M T Driver Military Farm, Ambala Cantt is legal & justified. If not, to what relief the workman is entitled”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 172/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14012/21/99-आई.आर.(डी-यु)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 172/99) of the Central Government Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farms and their workman, which was received by the Central Government on 23-4-2002

[No L-14012/21/99-IR(DU)]
KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No ID 172/99

Sh Gurmeet Singh,

C/o Sh B R Prabhakar,

63-C, Karlash Nagar, Model Town,

Ambala (Haryana)-133001

Applicant

Versus

1 The Director, Military Farms,
Western Command, H Q (Farm Br)
Chandimandir-134107

2 The Officer-In-Charge Military Farm,
Bir Sarangwal, PO Jassomajra,
Distt. Nawashar (Pb) -144514

Respondent

Representatives

For the workman Sh Dhami Ram

For the management Sh K K Thakur

AWARD

Dated 11th April, 2002

The Central Govt, Ministry of Labour vide Notification No L-14012/21/99 IR (DU) dated 3rd August

1999 has referred the following disputes to this Tribunal for adjudication

“Whether the action of the Officer Incharge, Military Farm, Birsarangwal in terminating the services of Sh Gurmeet Singh S/o Bikar Singh is legal & justified? If not, to what relief the workman is entitled?”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this statement, the No dispute award is returned in the present case to the Ministry. Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 241/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14012/58/99-आई.आर.(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 241/99) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farms and their workman, which was received by the Central Government on 23-4-2002

[No L-14012/58/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No I D 241/99

Sh Bajrang Prasad,
C/o Sh B R Prabhakar.

63-C, Kailash Nagar,

Ambala Cantt (Haryana)-133001

Applicant

Versus

Officer-In-Charge, Military Farm,
Ambala Cantt (Haryana)-133001

Respondent

Representatives

For the workman Sh Dhami Ram

For the management None

AWARD

Dated 11th April, 2002

The Central Govt, Ministry of Labour vide
Notification No L-14012/58/99 IR (DU) dated 29th October

1999 has referred the following dispute to this Tribunal for adjudication

“Whether the action of the Officer Incharge, Military Farm, Ambala Cantt in terminating the services of Sh Bajrang Prasad S/o Brij Lal w e f 15-9-98 is legal & justified? If not, to what relief the workman is entitled?”

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this statement, the No dispute award is returned in the present case to the Ministry. Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 238/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14012/59/99-आई.आर.(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 238/99) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farms and their workman, which was received by the Central Government on 23-4-2002

[No L-14012/59/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No I D 238/99

Smt Vidya Devi,

C/o Sh B R Prabhakar,

63-C, Kailash Nagar, Model Town,

Ambala Cantt (Haryana)

Applicant

Versus

Officer-In-Charge, Military Farm,
Ambala Cantt (Haryana)-133001

Respondent

Representatives

For the workman Sh Dhami Ram

For the management None

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-14012/59/99-IR (DU) dated 29th October 1999 has referred the following dispute to this Tribunal for adjudication

"Whether the action of the Officer Incharge, Military Farm, Ambala Cantt in terminating the services of Smt Vidya Devi D/o Chetan Singh w e f 17-10-98 is legal & justified ? If not, to what relief the workman is entitled ?"

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry Central Govt be informed

S M GOEL Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 53/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-14012/115/91-आई आर.(डी.यू.)

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947) the Central Government hereby publishes the award (Ref No 53/93) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farms and their workman, which was received by the Central Government on 23-4-2002

[No L-14012/115/91-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No ID 53/93

Sh Joginder Singh S/o Sh Bhartu
C/o Military Farm, Bir Dhantori,
PO Shahabad, Markanda,
Distt Kurukshetra-132118

Applicant

Versus

Manager, Officer-In-Charge, Military Farm,
Bir Dhantori, PO Shahabad Markanda,
Distt Kurukshetra-132118

Respondent

Representatives

For the workman Sh Dhanu Ram

For the management None

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-14012/115/91-IR (DU) dated 23rd March 1993 has referred the following dispute to this Tribunal for adjudication

"Whether the action of the Management of Military Farm, Bir Dhantori in terminating the services of Shri Joginder Singh w e f August 1990 is justified ? If not to what relief he is entitled to ?"

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 52/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल 40012/36 93-आई आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947) the Central Government hereby publishes the award (Ref No 52/94) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Deptt and their workman, which was received by the Central Government on 23-4-2002

[No L-40012/36/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No ID 52/94

Sh Balwan Singh
C/o President Distt Agriculture,
Workers Union, 123/5,
Jawahar Nagar, Hissar-125001

Applicant

Versus

Superintendent of Post Office.
Hissar Division.
Hissar-125001

Respondent

Representatives

For the workman Sh Darshan Singh
For the management Sh M M Putney

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-40012/36/93-IR (DU) dated 29th June 1994 has referred the following dispute to this Tribunal for adjudication

"Whether the action of the Management of Superintendent of Post Office, Hissar in terminating the services of Shri Balwan Singh, Extra Departmental Employees w e f 1-11-91 is justified ? If not, what relief the workman concerned is entitled to ?"

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry Central Govt be informed

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 75/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-40012/514/2000-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 75/2001) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt and their workman, which was received by the Central Government on 23-4-2002.

[No L-40012/514/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No 75/2001

Sh Naresh Kumar S/o Ram Nath,
H No 15, P&T Colony,
Ambala Cantt (Haryana) 133001

Applicant

Vs

The Chief General Manager,
Telecom, Punjab Circle, Sector 34,
Chandigarh-160001

Respondent

Representatives

For the workman None
For the management Sh G C Babbar

AWARD

Dated 8th April, 2002

The Central Govt Ministry of Labour vide Notification No L-40012/514/2000-IR (DU) dated 31-01-2001 has referred the following dispute to this Tribunal for adjudication

"Whether the action of the Management of Deptt of Telecom, Chandigarh in terminating the services of Shri Naresh Kumar S/o Sh Ram Nath w e f 27-2-99 is just and legal ? If not, to what relief the workman is entitled to ?"

2 None appeared on behalf of the workman and no claim statement also filed It appears that the workman is not interested to pursue with the present reference The same is returned and dismissed in default

Chandigarh
Dated 8-4-2002

S M GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 71/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-40012/518/2000-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947) the Central Government hereby publishes the award (Ref No 71/2001)

of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt and their workman, which was received by the Central Government on 23-4-2002

[No L-40012/518/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer
ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE No 71/2001

Sh Balwinder Singh S/o Joga Singh,
Vill Mastgarh, PO Mulapur,
Tehsil Kharar, Ropar

Applicant

Vs

The Principal General Manager,
Telecom Sector-18
Chandigarh-160001

Respondent

Representatives

For the workman None
For the management Sh G C Babbar

AWARD

Dated 8th April, 2002

The Central Govt Ministry of Labour vide Notification No L-40012/518/2000-IR (DU) dated 31-01-2001 has referred the following dispute to this Tribunal for adjudication

'Whether the action of the Management of Deptt of Telecom, Chandigarh in terminating the services of Shri Balwinder Singh S/o Sh Joga Singh w e f 27-2-99 is just and legal ? If not to what relief the workman is entitled ?'

2 None appeared on behalf of the workman and no claim statement also filed It appears that the workman is not interested to pursue with the present reference The same is returned and dismissed in default

Chandigarh

S M GOEL Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1676.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 43/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[स एल-42011/23/92-आई आर.(डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 43/93) of the Central Government Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B B M B and their workman, which was received by the Central Government on 23-4-2002

[No L-42011/23/92-IR(DU)]
KULDIP RAI VERMA Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT CHANDIGARH

CASE No 1 D 43/93

Sh Dham Ram, General Secretary,
B S L Project Mazdoor Ekta Union,
S-1/51, Sundernagar (HP)

Applicant

Versus

Chief Engineer, B S L (B B M B)
Sundernagar, Distt Mandi (H P)

Respondent

Representatives

For the workman Sh Dham Ram
For the management Sh D L Sharma

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-42011/23/92-IR (DU) dated 19th March, 1993 has referred the following disputes to this Tribunal for adjudication

SCHEDULE

(Annexure 'A' enclosed)

2 The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat In view of this statement, the No dispute award is returned in the present case to the Ministry Central Govt be informed

S M GOEL, Presiding Officer

ANNEXURE-A

File L-42011/23/92-IR(DU)

TERMS OF REFERENCE

Whether action of the management of BSL (BBMB) in not granting the pay scale of Rs 750-1350 to the daily rated workmen (whose names are mentioned below) at par with regular workmen from the date of their appointment, is legally just and valid ? If not then to which relief the workmen are entitled to and from which date ?

**LIST OF WORKMEN CLAIMING REGULAR
PAY SCALES OF RS. 750-1450**

Sl. No.	Name	Father's Name	Desig.	Date of Appointment
	S/Sh.			
1.	Prem	Chaudhary	Beldar	5-7-88
2.	Roshan Lal	Roop Lal	"	1-7-88
3.	Bristu	Tada	"	5-7-88
4.	Karan Bahadur	Nar Bahadur	"	5-7-88
5.	Gattu	Dharu Ram	"	5-7-88
6.	Jagree Ram	Katku	"	4-7-88
7.	Katkoo	Chamaroo	"	5-11-88
8.	Joginder	Sairoo	"	1-12-88
9.	Amin Chand	Dhana	"	19-6-88
10.	Ramesh	Jawahar	"	19-11-88
11.	Gajn	Phagnoo	"	16-12-87
12.	Anant Ram	Bardoo	"	4-10-87
13.	Hira Lal	Bangaloo	"	5-1-88
14.	Sant Ram	Gawanoo	"	6-1-88
15.	Nant Ram	Govind	"	5-1-88
16.	Sant Ram	Chanan	"	29-1-88
17.	Ram Singh	Shanker	"	28-1-88
18.	Beli Ram	Chunu	"	21-3-88
19.	Basakhoo	Nand Lal	"	27-1-88
20.	Sukh Ram	Sain Dass	"	15-5-89
21.	Dharam Datt	Braham Dev	"	1-4-89
22.	Dhani Ram	Nankoo	"	2-1-88

नई दिल्ली, 23 अप्रैल, 2002

का. आ. 1677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जगड़ीगढ़ के पंचाट (संदर्भ संख्या 44/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-42011/33/92-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central

Government hereby publishes the award (Ref. No. 44/93) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.B.M.B. and their workman, which was received by the Central Government on 23-4-2002.

[No. L-42011/33/92-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

CASE NO. I.D. 44/93

Sh. Dhani Ram, General Secretary, B.S.L. Project Mazdoor Ekta Union, S-1/51, Sundernagar (HP) ...Applicant

Versus

Executive Engineer, Electrical and Mechanical Division
B.B.M.B. Pandoh (H.P.) ...Respondent

Representatives :

For the workman : Sh. Dhani Ram

For the management : Sh. S. K. Dahuja

AWARD

Dated : 11th April, 2002

The Central Govt. Ministry of Labour vide Notification No. L-42011/33/92-I.R. (D.U.) dated 19th March, 1993 has referred the following disputes to this Tribunal for adjudication :

“Whether the following demands raised by BSL Project Mazdoor Ekta Union, Sundernagar Township in respect of S/Shri Man Singh and 6 other Beldars as shown in Annexure A, on the Executive Engineer, Pandoh Elect. and Mech. Division BBMB, Pandoh (HP) are justified. If yes, what relief the workman concerned are entitled to? (Annexure-A enclosed).”

2. The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this statement, the No dispute award is returned in the present case to the Ministry. Central Govt. be informed.

S. M. GOEL, Presiding Officer.

ANNEXURE-A

Demands :

1. To regularise the workmen (as given below) from the date of their recruitment.
2. To pay them wages as paid to their regular counterparts from the date of initial recruitment.

Sl No	Name	Father's Name	Desig	Rate	Date of apptt
1	Man Singh	Tulmu	Beldar/ Mazdoor	22	5-1-1988
2	Nagru	Kama Chand	-do-	22	4-1-1989
3	Kundan Lal	Het Ram	-do-	22	1-7-1990
4	Jiwan Singh	Shiv Ratroo	-do-	22	1-6-1989
5	Guhia	Fagru	-do-	22	2-11-1988
6	Gagru	Ganda Ram	-do-	22	
7	Hussan Singh	Anant Singh	-do-	22	4-1-1989

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1678.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 12/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[मं. एल-42011/39/91-आई.आर. (डी.यु.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1678.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 12/93) of the Central Government Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B B M B and their workman, which was received by the Central Government on 23-04-2002

[No L-42011/39/91-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S M GOEL, PRESIDING OFFICER,
CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT CHANDIGARH

CASE NO ID 12/93

Sh Chander Bhan, Transport Workers Union,
Sundernagar, Distt Mandi (HP) 174402 Applicant

Versus

1 Superintending Engineer, D P H (P W) B B M B,
Slapper-174403

2 Chief Engineer, B S L (B B M B) Sundernagar, Distt
Mandi (HP) 174402 Respondent

Representatives :

For the workman Sh Dhani Ram

For the management Sh D L Sharma

AWARD

Dated 11th April, 2002

The Central Govt Ministry of Labour vide Notification No L-42011/39/91-IR (D U) dated 18th January 1993 has referred the following disputes to this Tribunal for adjudication

"Whether the action of the management of the B B M B in not granting 8 additional casual leaves to the workmen whose names appear in the list enclosed is justified ? If not, what relief the workmen concerned are entitled to ?" (list enclosed)

The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this statement, the No dispute award is returned in the present case to the Ministry. Central Govt be informed

S M GOEL Presiding Officer

ANNEXURE

L-42011/39/91-IR(DU)

List of name of persons involved in the dispute (who are not availing casual leave)

Sl No	Token No	Name of the Employees	Designation
1	250-AP	Amar Singh	Beldar
2	208-AP	Ram Sarup	Conductor
3	214-AP	Het Ram	-do-
4	224-AP	Budhi Singh	-do-
5	245-AP	Nain Singh	Driver
6	286-AP	Baldev Butt	-do-
7	271-AP	Anokha Ram	-do-
8	241-AP	Keher Singh	-do-
9	230-AP	Govind Ram	-do-
10	276-AP	Roop Lal	-do-
11	266-AP	Chander Bhan	Conductor
12	279-AP	Mast Ram	Driver
13	231-AP	Madan Lal	Conductor
14	217-AP	Rup Chand	-do-
15	263-AP	Fateh Singh	A F S
16	203-AP	Ram Asra	Chargeman
17	204-AP	Suraj Kishan	Chargeman

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1679.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इन्स्टिट्यूट फॉर रिसर्च आन बुफैलोस् के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 36/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-42012/292/94-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1679.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 36/96) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Instt for Research on Buffaloes and their workman, which was received by the Central Government on 23-04-2002

[No L-42012/292/94-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE SHRI S. M. GOEL, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH**

CASE NO. I.D. 36 OF 1996.

Sh Tek Chand C/o Distt President Distt Agriculture Workers Union, 123/5, Jawahar Nagar, Hissar-125001

Applicant

Vs

Director

Central Instt for Research on Buffaloes.

Hissar-125001

Respondent

REPRESENTATIVES:

For the workman Shri Darshan Singh

For the management Shri Meena

AWARD

Dated 5th April 2002

The Central Govt Ministry of Labour vide Notification No L-42012/292/94-I R (D U) dated 27th March 1996 has referred the following disputes to this Tribunal for adjudication

"Whether the action of the management of Central Institute for Research on Buffaloes, Hissar in not giving the preference during re-employment to

Sh Tek Chand is just, fair and legal ? If not, to what relief the workman is entitled to and from what date ?

2 The representative of the workman made a statement that the workman is not approaching him for filing his affidavit and if the court so like dismiss the case in default In view of the above the present reference is returned to Central Govt as dismissed in default

Chandigarh

Camp at Hissar

Dated 5-4-2002

S M GOEL, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1680.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राज. स्टेट. माईनिंग डवलपमेंट कार्पो. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल-29012/3/2000-आई.आर. (एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April. 2002

S.O. 1680.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Udaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s Rajasthan State Mining Development Corpn and their workman, which was received by the Central Government on 23-04-2002

[No L-29012/3/2000-IR (M)]

B M DAVID. Under Secy

अनुबंध

न्यायाधीश

औद्योगिक अधिकरण एवं श्रम न्यायालय, उदयपुर

मु. न. 10/2000-आई टी आर-केन्द्र सरकार

अनु.— अनिल कुमार C/o राज. स्टेट मिन. कर्मचारी संघ

Vs

मै. राज. स्टेट मि झामर-कोण्डा, उदयपुर

अधि. नं. एल—29012/3/2000/आई आर (एम) दि 31-5-2000

निर्णय

19-3-02

प्रार्थी से बावजूद तामील नोटिस कोई उप नहीं आया, नोटिस बाद तामील ऐलान है। प्रार्थी को काफी आवाजें दिलाई गई—समय 1.30 पी एम हो रहा है, प्रार्थी की गैर हाजरी बाबत कोई कारण पेस नहीं हुआ है प्रार्थी की ओर से क्लेम भी पेस नहीं हुआ है ऐसी स्थिति में यही माना जावेगा कि प्रार्थी का अब विपक्षी नियोजक से कोई विवाद

नहीं है। अतः के इस विवाद में प्रार्थी की गैर हाजरी व उसके द्वारा क्लेम पेस नहीं होने में कोई विवाद नहीं “नो-डिस्प्यूट” एवार्ड जारी किया जाता है सूचना भारत सरकार को भेजी जावे। पत्रावली फैसला शुमार होकर दाखिल दफ्तर हो।

ह./-

अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1681.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. एस. एम.डी. सी., रांची के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 95/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-29012/10/93-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1681.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 95/1993) of the Central Government Industrial Tribunal, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s BSMDC, Ranchi and their workman, which was received by the Central Government on 23-04-2002

[No L-29012/10/93-IR (M)]

B M DAVID, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under sec. 10(1) (d) (2A) of
the Industrial Disputes Act, 1947

Reference No. 95 of 1993

Parties Employers in relation to the management of
B S M D Corp Ltd Ranchi

AND

Their Workman

Present Shri S H Kazmi, Presiding Officer

Appearances

For the Employers Shri H Nath, Advocate

For the Workman Shri R S Murthy, Advocate

State Jharkhand Industry Mineral

Dated, the 5th April, 2002

AWARD

By Order No L-29012/10/93-IR (Misc) dated
15/19-10-1993 the Central Government in the Ministry of

Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal

“Whether the action of management of the B S M D C L Ranchi in terminating the service of the workman Shri Navin Kumar Srivastava, Clerk, posted in the Office of Project Office, Daltonganj w e f 4-11-91 is justified? If not to what relief the workman is entitled?”

2 The case of the concerned workman, in short, is that he was appointed on 21-3-77 as Blaster Helper and continued to work under the management regularly and uninterruptedly till 4-11-1991 on which date his service was illegally terminated by the management. It has further been said that during the aforesaid period of his engagement in the year 1982 the concerned workman was promoted to the post of Clerk and was working in that capacity in the Project office of the management at Daltonganj. Further the case is that the concerned workman was relieved from his post w e f 4-11-1991 by the management just by setting up a false story making out a false allegation and also in order to accommodate its own man in place of the concerned workman. Further it has been said that at no point of time before taking the said action the concerned workman was served with either chargesheet or was noticed to explain his conduct. No any departmental enquiry was ever held and straightway the order of dismissal was passed which was later communicated to the concerned workman without affording any opportunity to the concerned workman to defend himself. It is said that the action of the management was arbitrary, wrong, illegal and in contravention of settled principle rules or the Standing Orders. Thereafter the dispute was raised before the A L C (C) Patna but as no positive development could take place there, finally the dispute was referred to this Tribunal for adjudication. It has also been said that during his 14 years of service under the management there had never been any complaint against him and he worked continuously to the satisfaction of all concerned. Lastly the prayer has been made for reinstatement with back wages and other consequential benefits.

3 The management on the other hand has come out with the stand as disclosed in its written statement that the concerned workman was never appointed as Blaster Helper, rather he was simply a daily wages worker purely on temporary basis and was appointed as a Clerk on 16-11-1982 on the basis of the certificate issued by Hindi Vidyapith Deoghar equivalent to matriculation which is minimum qualification for appointment as a Clerk. Further the case is that the said certificate submitted by the workman was declared forged by the “KUL SACHIV” Hindi Vidya pith, Deoghar vide his letter dated 10-10-91 when it was verified by the employer. On the basis of this act of

misconduct, forgery and cheating, it is said, the concerned workman was dismissed on 4-11-91 and thereafter a F I R was lodged by the management in the Hindpuri Police Station in the town of Ranchi against the concerned workman for forgery and cheating vide its letter dated 6-11-91. On the basis of the written report a case was registered on 14-11-91 under Secs 420, 467, 469, 471 and 120 B I P C against the concerned workman and after investigation the chargesheet was also submitted, whereafter cognizance was taken by the Court where it remained pending for trial and disposal. It has been said that since the case of misconduct, forgery and cheating and also for not having requisite qualification for the post of clerk was established the employer was duty bound to dismiss the workman and as such the said action cannot be questioned. Lastly, according to the management the workman concerned is not entitled to any of the relief as claimed.

4 In course of the proceeding both sides have led their oral as well as documentary evidence which would be taken note of and considered in course of the discussions made hereinafter.

5 Considering the aforesaid stands taken on behalf of the parties as also in view of the materials which have been brought on record certain facts stands undisputed rather admitted which would be proper to be noticed at the very outset and those are

- (i) The concerned workman was initially engaged as daily rated worker and he went on working as such till the year 1982 when he was appointed as a clerk.
- (ii) As a clerk he worked for about 9 years or till the date of termination of his service.
- (iii) Prior to his dismissal or termination from service neither he was served with any chargesheet nor any departmental enquiry was ever held and prior to the aforesaid action taken at no point of time any explanation was called for from him for the alleged misconduct.

Now as seen above, the stand of the management is that as it had already been verified that the certificate produced by the concerned workman was forged, it was not necessary for the management to hold an enquiry. Further the stand is that the requisite qualification for being appointed as a clerk was matriculation or qualification equivalent to that and when it was detected upon verification being done that the concerned workman cheated the management by producing the forged certificate showing his educational qualification, there was no option left for the management but to dismiss him straightway from the service without observing the formalities in the shape of holding domestic enquiry. In this regard in course of argument it has been urged on behalf of the management that in view of the gravity of the situation and also in view of the presence of sufficient

materials to show, the forgery being done, it was not incumbent upon the management to hold any enquiry and as such the action taken by the management cannot be held to be bad or illegal.

On the other hand, from the side of the workman it has been vehemently denied that the concerned workman ever produced any certificate much less the certificate as alleged at the time of his selection for the post of clerk. It has also been strenuously urged on behalf of the concerned workman that there was no any qualification prescribed for appointment of the said post and as the concerned workman worked continuously for a long time and had sufficient experience he was being selected for the said post. It has also been urged that the management proceeded in a quite arbitrary and illegal manner in straightway terminating the service of the concerned workman without affording opportunity to defend himself or without giving him a chance to furnish explanation in the aforesaid regard. It has also been contended that the criminal case instituted by the management for the same charge has already ended in acquittal of the concerned workman as the management miserably failed to substantiate the said charge and as such in this view of the matter also the concerned workman deserves reinstatement as the main reliance of the management was upon the said criminal case filed against the concerned workman.

6 In view of the nature of controversy being raised firstly it has to be seen whether at all any certificate was submitted by the concerned workman before the management and whether the said certificate can be said to have been sufficiently established as forged.

MW-1 Rabindra Prasad Singh in his evidence has said that the concerned workman had filed certificate of Deoghar Vidyalaya equivalent to matriculation. He has not claimed to have seen the concerned workman filing the said certificate nor he speaks about the existence of any proof in that regard. MW-2—Earnest Barla has also stated simply that the concerned workman had shown his matriculation certificate from Deoghar Vidyalaya. It is only MW-3—Dhruba Narayan Singh who has stated that the concerned workman had filed photo copy of mark-sheet, veron copy of which he had forwarded to the Head Office. He has proved the said mark-sheet which was marked as Ext M-4.

The consistent case of the management so far was that a certificate was filed by the concerned workman but for the first time here this witness has taken the name of mark-sheet and in fact it is the marksheet over which reliance has been placed by the management and at its instance the same has been marked as an exhibit. There is no reference of any certificate and further it is not clear whether any certificate was sent to Hindi Vidyalaya for verification or the mark-sheet only. But at least this much

stands un-denied that not the original rather a photo copy of the certificate or the mark-sheet was sent for verification. In this context before proceeding ahead it is further necessary to point out that in Ext M-3/1 which is a list containing the names and other particulars of those workmen who were appointed as clerks and which was sent to the Managing Director of the concerned management alongwith a forwarding letter of the then Project Officer of the management, it stands clearly mentioned in a separate column that the photo copy of the original certificate, mark-sheet and the photo copy of the school leaving certificate concerning the concerned workman were annexed alongwith the said list. So, if this document is to be believed it is clear that not only one document rather three documents relating to the concerned workman were forwarded alongwith the said list. Now the question is which of those documents was sent for verification. Coming to the evidence of MW-3 it is further relevant to notice that in course of his cross-examination he has said that in the mark-sheet (Ext M-4) he has not put any initial to indicate that he had dealt with the same. His next statement bears much significance wherein he has said that the proof of filing the certificate regarding educational qualification must be in the personal file of the concerned workman in the Project Office at Daltonganj. In the end he appears to have said that the concerned workman had not produced any marksheet before him. So this witness has also made it clear that the marksheet was not filed in his presence and he has further indicated the place where the proof in that regard may lie. The management has not filed anything in proof of the fact that the said marksheet or the certificate were filed by the concerned workman.

Besides the above, during the entire proceeding no any original certificate said to have been issued by the Hindi Vidya-pith Deoghar was produced by the management and further Sri B. Singh, the then Project Officer, who had put his initial on the mark-sheet (Ext M-4) in token of the fact that the said copy was the true copy and who had forwarded the document relating to the educational qualification of those selected for the post of clerks to the Managing Director has not been examined and as regards him MW-3 in his evidence has said that he has already been superannuated and the company has not made any effort to call him to give his evidence in this case. Considering the circumstances of this case definitely he was a material witness who has not been examined by the management without any explanation. The management's witnesses have expressed their ignorance about producing the original of the alleged certificate by the workman and MW-3 more specifically at one place has said that he could not say whether the mark-sheet filed by the workman was forged or not. The management is merely making reliance upon the letter received from the Hindi Vidya-pith Deoghar (Ext M-5/1) to show that the certificate was found to be forged. But in view of the attending circumstances and

also in view of the fact that the original certificate was not made available for verification and it was not brought to the notice as to on what basis the same was found to be forged, it is certainly difficult to gather conclusively that the forged documents were procured and produced and further in view of the discussions made above it stands not established that those documents were produced by the concerned workman, for the purpose of his selection for the post of clerk.

7 Yet another question which requires consideration is whether at all there was any minimum qualification fixed for the appointment to the post of clerk. Out of the three witnesses examined on behalf of the management two witnesses, namely, MW-1 and MW-2 have said during their evidence that matriculation was the minimum qualification for the said post. MW-1 at one place in his evidence has said that the Project Officers were requested verbally to recommend the names of those eligible workers only who are either matriculate or having equivalent qualification. He has further said that he is not aware if there is any rule or circular or order providing for minimum qualification of matriculation for the post of clerk. At another place he has also said that the management had been following the rules of Government of Bihar and the documents can be shown in that regard. No any such document has been filed from the side of the management although the proceeding MW-2 also in his evidence has said that rules and regulations of the company can be filed to show that the minimum qualification for the post is matriculation. He has denied the suggestion that there is no such rule in the company. No such rule or regulation has been filed by the management. On the other hand, the concerned workman (WW-1) himself in his evidence has denied the said fact by saying that at the time of interview there was no condition that for selection to the post of clerk requisite educational qualification was matriculate. He has further said that the Manager never intimated that for the post of clerk necessary qualification is matriculate. Thereafter he has stated that he has not submitted any certificate for having passed Praveshika examination of Deoghar Vidya-pith. During the course of argument also from the side of the management it was urged that the company follows the rules of Government of Bihar as per which the requisite qualification for the post of clerk is matriculation. But no any rule, regulation or for that matter anything was produced in support of such contention being raised. In Ext M-3/1 as against some of the workmen appointed in the post of clerk no any educational qualification has been mentioned and further there is no mention about production of the document in that regard. Thus, in short, the management has failed to establish and further there is nothing available on the record to come to the conclusion that there was minimum qualification prescribed and that the rules of Government of Bihar was followed.

8 It has already been mentioned above that immediately after the passing of the order of dismissal the management lodged an F I R also for the same charge under various Sections of I P C The case was registered, chargesheet was submitted, but when the matter came to the Court for trial and disposal, as it is evident from the certified copy of the judgement of the criminal court filed, the management or prosecution failed to establish those charges either for forgery or cheating through cogent evidence and ultimately the concerned workman and another were acquitted of those charges Incidentally, two witnesses examined on behalf of the management in the present case, namely, MW-1 and MW-2 were the witnesses on behalf of the management or the prosecution in that criminal case also and their evidence was thoroughly scrutinised by the said court for coming to a conclusion

It is true that acquittal in a criminal case for the same charge does not have any binding effect as far as the departmental proceeding is concerned, but here is the case where no departmental or domestic enquiry was ever held and without serving any chargesheet or issuing any show-cause notice or giving the chance to the concerned workman to defend himself, straightway he was dismissed from his service and soon thereafter a criminal case was also instituted for those charges As such, here the position is different and quite apparently immediately after taking the aforesaid action the management heavily relied upon the outcome of the said criminal case In such circumstances the final verdict of the criminal court certainly assumes much significance and the acquittal of the concerned workman in the said criminal case certainly can be taken to be a circumstance in his favour for the purpose of the instant reference case

9 Though in exceptional cases necessary action can be taken directly but generally the set principle followed is that a person is given chance to explain his conduct and to defend himself before finally some order is passed against him either for his dismissal, termination or regarding any other punishment One of the management's witness, MW-1 has admitted that the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946 are being followed by the company It has not been disputed that such Standing Orders have the force of law It is undenied that those Standing Orders provide very clearly that no workman would be dismissed without a regular domestic enquiry after issuance of chargesheet etc In the present case quite obviously the reasonable opportunity to defend himself was denied to the concerned workman and nothing has been provided in course of the proceeding not even in the order of dismissal it has been discussed as to why it was considered necessary to dispense with the domestic enquiry and not to give the concerned workman the chance at least to explain those charges as levelled against him Even if some verification was being done at its own level it was in the

fitness of thing and would have been in conformity with the settled principle also if the management prior to passing the order of dismissal would have followed the prescribed procedure and would have initiated an enquiry against the concerned workman The hasty manner in which the management has proceeded can certainly be called 'unwarranted'

10 Thus in view of all the aforesaid considerations and discussions on the basis of the materials available on the record I come to the conclusion that the action of the management in terminating the service of the concerned workman cannot be held to be justified, and certainly he deserves reinstatement on the post on which he was working However, in the circumstances of this case as also in view of the fact that nothing has been brought on record to show whether after termination of his service the concerned workman was sitting idle or was engaged in gainful service he cannot be allowed to be paid back wages

11 Thus, the award is rendered as hereunder

The action of the management of B S M D C Ltd . Ranchi in terminating the service of the workman, Navin Kumar Srivastava, Clerk, is not justified and he deserves reinstatement on the post on which he was working The management is directed to reinstate the concerned workman without back wages, within from the date of publication of the award

However there would be no order as to cost

S H KAZMI, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1682.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेवाड़ मार्बल्स के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[स एल.-29012/28/01-आई.आर. (एम)]

बी एम डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1682.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s Mewar Marbles and their workman, which was received by the Central Government on 23-04-2002

[No L-29012/28/2001-IR (M)]

B M DAVID, Under Secy

अनुबंध

न्यायाधीश

औद्योगिक अधिकरण एवं

श्रम न्यायालय, उदयपुर

मु. न. 12/2001-आई टी आर-केन्द्र सरकार

अनु.—सुशील कुमार V/s मैनेजर, मेवाड़ मार्बल्स—राजसमंद

अधि. सं. एल—29012/28/2001/आई आर (एम) दि. : 18-6-01

निर्णय

4-4-2002

प्रार्थी या प्रतिनिधि उप. नहीं। प्रार्थी की गैर हाजरी बाबत कोई कारण पेश नहीं हुआ है। प्रार्थी को कई बार आवाजें दिलाई गई—समय 1.00 पी. एम. हो रहा है, प्रार्थी की ओर से विवाद प्राप्त होने से लेकर आज तक क्लेम पेश नहीं किया गया, प्रार्थी को अपना क्लेम पेश करने हेतु पूर्व में कई अवसर दिये जा चुके हैं। आज प्रार्थी के उप. नहीं होने से यही माना जायेगा कि प्रार्थी का अब विपक्षी नियोजक से कोई विवाद नहीं है, अतः प्रार्थी के पक्ष में इस विवाद में कोई विवाद नहीं “नो-डिस्प्यूट” एवार्ड जारी किया जाता है। सूचना भारत सरकार को भेजी जावे। पत्रावली फैसल शुमार होकर दाखिल दफ्तर हो।

ह./-

अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. के. मार्बल्स के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-29012/52/20/01-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1683.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management R. K. Marbles and their workman, which was received by the Central Government on 23-04-2002.

[No L-29012/52/2001-IR (M)]

B M DAVID, Under Secy.

अनुबंध

न्यायाधीश

औद्योगिक अधिकरण एवं

श्रम न्यायालय, उदयपुर

मु. न. 6/2002-आई टी आर-केन्द्र सरकार

अनु.—रमेश चन्द्र योगी V/s जन. मैने. आर. के. मार्बल्स—राजसमंद

अधि. सं. एल—29012/52/01/आई आर (एम) दि. : 13-11-02

निर्णय

5-4-2002

प्रार्थी रमेश चन्द्र के प्रा. पत्र पत्रावली पेश हुई। प्रार्थी-प्रतिनिधि श्री अशोक जैन Ad उप. प्रार्थी ने अपने प्रा. पत्र में निवेदन किया कि प्रकरण पूर्व में खारिज हो गया है। उसे पुनः नम्बर पर लिया जावे। विपक्षी प्रतिनिधि श्री मो. शरीफ छीपा ए. डी. व. I. बी. चन्द्रपाल उप. विपक्षी को प्रार्थी के प्रा. पत्र की नकल दी ग.। विपक्षी को प्रा. पत्र स्वीकार करने में कोई आपत्ति नहीं होने से प्रार्थी का यह प्रा. पत्र स्वीकार किया जाकर प्रकरण पुनः नम्बर पर लेने का आदेश दिया जाता है।

मूल वाद पुनः दर्ज रजिस्टर किया जावे।

प्रार्थी रमेश चन्द्र ने आज एक और प्रा. पत्र पेश किया, प्रार्थी व विपक्षी के मध्य राजीनामा हो गया है। प्रार्थी अब इस विवाद में आगे कार्यवाही नहीं चाहता है। अतः हस्तः प्रा. पत्र इस विवाद में राजीनामा हो जाने के कारण प्रार्थी के पक्ष में कोई विवाद नहीं “नो-डिस्प्यूट” एवार्ड जारी किया जाता है। सूचना भारत सरकार को भेजी जावे। पत्रावली फैसल शुमार होकर दाखिल दफ्तर हो।

ह./-

अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. के. मार्बल्स के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-29012/100/2001-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1684.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Udaipur as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management R K Marbles and their workman, which was received by the Central Government on 23-04-2002

[No L-29012/100/2001-IR (M)]

B M DAVID, Under Secy

अनुबंध

न्यायाधीश

औद्योगिक अधिकरण एवं

श्रम न्यायालय, उदयपुर

मु. न. 7/2002-आई टी आर-केन्द्र सरकार

अनु.—रामसिंह S/o भैरव सिंह V/s जन. मैने. आर. के. मार्बल्स—
राजसमंद

अधि. सं. एल—29012/100/01/आई आर (एम) दि. : 8-11-01

निर्णय

5-4-2002

प्रार्थी रामसिंह के प्रा. पत्र पर पत्रावली पेश हुई है। प्रार्थी प्रतिनिधि, श्री सुरेश व्यास Ad उप. विपक्षी से श्री मो. शरीफ छीपा मय सी. बी. चन्द्रापाल उप. प्रार्थी ने प्रा. पत्र पेश किया कि उसके व विपक्षी के मध्य राजीनामा हो गया है। जिससे प्रार्थी अब इस विवाद में अग्रिम कार्यवाही नहीं चाहता है। हस्वः प्रा. पत्र प्रार्थी इस विवाद में राजीनामा हो जाने के कारण प्रार्थी के पक्ष में कोई विवाद नहीं “नो-डिस्प्यूट” एवार्ड जारी किया जाता है। सूचना भारत सरकार को भेजी जावे। पत्रावली फैसल शुमार होकर दाखिल दफ्तर हो।

ह./-

अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. के. मार्बल्स के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-29012/101/2001-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1685.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management R. K. Marbles and their workman, which was received by the Central Government on 23-04-2002.

[No. L-29012/101/2001-IR (M)]

B.M. DAVID, Under Secy

अनुबंध

न्यायाधीश

औद्योगिक अधिकरण एवं

श्रम न्यायालय, उदयपुर

मु. न. 4/2002-आई टी आर-केन्द्र सरकार

अनु.—मोहन सिंह सुपुत्र भैरव सिंह V/s जन. मैने. आर. के. मार्बल्स—
राजसमंद

अधि. सं. एल—29012/101/01/आई आर (एम) दि. : 8-11-01

निर्णय

5-4-2002

प्रार्थी मोहन सिंह के प्रा. पत्र पर पत्रावली पेश हुई है। प्रार्थी प्रतिनिधि श्री सुरेश व्यास Ad उप. विपक्षी से श्री मो. शरीफ छीपा मय सी. बी. चन्द्रापाल उप. प्रार्थी ने प्रा. पत्र पेश किया कि उनके व विपक्षी नियोजक के मध्य राजीनामा हो गया है। जिससे प्रार्थी अब इस विवाद में आगे कार्यवाही नहीं चाहता है। हस्वः प्रा. पत्र प्रार्थी इस विवाद में राजीनामा हो जाने के कारण प्रार्थी के पक्ष में कोई विवाद नहीं “नो-डिस्प्यूट” एवार्ड जारी किया जाता है। सूचना भारत सरकार को भेजी जावे। पत्रावली फैसल शुमार होकर दाखिल दफ्तर हो।

ह./-

अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. आई. एम. एफ. ए. लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 231/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-29012/143/98-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1686.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 231/2001) of the Central Government Industrial Tribunal, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. IMFA Ltd. and their workman, which was received by the Central Government on 23-04-2002.

[No. L-29012/143/98-IR (M)]

B M DAVID, Under Secy

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR**

Present

Shri S K Dhal, OSJS. (Sr Branch).

Presiding Officer, C G I T -cum-Labour Court,

Bhubaneswar

Tr INDUSTRIAL DISPUTE CASE NO 231/2001

Date of conclusion of hearing—1st April 2002

Date of Passing Award—5th April 2002

Between

The Management of the Joint Managing Director,

Bangur Chromite Mines of ICCL, Office of the

M/s IMFA Ltd, Bomikhal, Rasulgarh,

Bhubaneswar-751 001

1st Party-Management

And

Their Workmen, Shri Sanjay Kumar Sahoo,

At/PO Bangore, Keonjhar-758023 2nd Party-Workman

Appearances

Mr M K Mahapatra,

Authorised Representative

For the 1st Party
ManagementMr Laxmikanta Choudhury,
AdvocateFor the 2nd Party-
Workman**AWARD**

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No L-29012/143/98/IR (M) dated 05-02-1999 —

“Whether the action of the Management of Bangur Chromite Mines of ICCL by terminating the services of Shri Sanjay Kumar Sahoo is legal and justified? If not to what relief the disputant is entitled?”

2 The case of the 2nd Party is that he was appointed as Driver-cum-Mechanic under the 1st Party-Management under the strength of Office Order dated 18-11-1995 after being facing interview conducted by the 1st Party-Management. During his service career he was awarded thrice for his good work. But suddenly, the 1st Party-management has terminated his services on 28-10-1996 without serving any notice. No departmental enquiry was made against him. So according to him the order of termination passed by the 1st Party-Management is illegal. He raised a dispute and after failure of the reconciliation

proceeding, the present reference has been made. The 2nd Party has prayed for reinstatement with back wages.

The 1st Party-Management admitting the appointment of the 2nd Party and has taken the stand that his performance was not satisfactory during probation period and while the order of appointment was issued it was clearly mentioned that, his services will be terminated if his performance is found unsatisfactory during the period of probation. The 1st Party-Management has taken the stand that the termination of the services of the 2nd Party during probation period due to unsatisfactory performance as per the terms of the appointment order so it does not amount to retrenchment under section 2 (OO) of the Industrial Dispute Act. They have taken further stand that, no domestic enquiry is required for a probationer. So, according to the 1st Party-Management the termination is neither illegal nor unjustified, and the 2nd Party is not entitled for any relief.

4 When both the parties were directed to file the list of documents and for settlement of issues, the memorandum of settlement in Form-H has been filed by both the parties and prayer has been made to pass the award according to the settlement made between the parties. In view of the above position the award is passed as per the terms of the memorandum of settlement filed in Form-H by both the parties. The memorandum of settlement filed in Form-H being signed by both the parties will form the part of the Award.

Reference is answered accordingly.

S K DHAL, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट (संदर्भ संख्या 24/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं एल.-32012/1/2001-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1687.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 24/2001) of the Central Government Industrial Tribunal, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Calcutta Port Trust and their workman, which was received by the Central Government on 23-04-2002.

[No L-32012/1/2001-IR (M)]

B M DAVID, Under Secy

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA****Reference No. 24 of 2001**

Parties : Employers in relation to the management of the Deputy Chairman, Haldia Dock Complex, Calcutta Port Trust, Jawhar Tower

AND

Their workman

Present

Mr Justice Bharat Prasad Sharma

Presiding Officer

Appearance

On behalf of Management Mr K Dutta, Advocate

On behalf of Workman Mr G K Ghosh, Advocate and
Mr S Majumdar, Advocate

State West Bengal Industry Port & Dock

Dated 10th April 2002

AWARD

By Order No L-32012/1/2001/IR(M) dated 01-08-2001 the Central Government in exercise of its powers under Sections 10(1) (d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication

“Whether the action of the Management of Haldia Dock Complex (Calcutta Port Trust) in removing Shri Subhrangshu Sekhar Das, Ex-sweeper from services is justified ? If not, to what relief the workman is entitled ?”

2 When the case is called out today, none appears for either of the parties, nor any step is taken on their behalf to proceed with the case. It appears from the record that on the last date, i.e., on 22-02-2002 Advocate for the workman was not present. Before that date, on 08-02-2002 Advocate for the management was present. In the circumstance, it is clear that the parties are not interested to proceed with the case.

3 In this view of the matter, this Tribunal has no other alternative but to treat it as a case of no dispute. Accordingly, a “No Dispute” Award is passed and the present reference is disposed of.

B P SHARMA, Presiding Officer

Dated, Kolkata, the 10th April, 2002

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1688.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मोरमुगाँव पोर्ट ट्रस्ट के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई के पंचाट (संदर्भ संख्या 2/100 का 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं. एल.-36011/5/2001-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1688.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 2/100 of 2001) of the Central Government Industrial Tribunal, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mormugao Port Trust and their workman, which was received by the Central Government on 23-04-2002

[No L-36011/5/2001-IR (M)]

B M DAVID, Under Secy

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO II, MUMBAI**

PRESENT,

CAMP GOA

S N SAUNDANKAR

PRESIDING OFFICER

REFERENCE NO. CGIT-2/100 OF 2001**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF MORMUGAO PORT TRUST**

The Chairman, Mormugao Port Trust,

Mormugao Harbour,

Goa-403803

AND

THEIR WORKMEN

The General Secretary,

Mormugao Port & Railway Worker's Union,

Ground Floor, Adjacent to MPT Canteen,

Main Administrative Building,

Headland-Sada

APPEARANCES

FOR THE EMPLOYER Mr M B Anchan, Advocate

FOR THE WORKMEN No Appearance

CAMP GOA, Dated 15th March, 2002

AWARD

The Government of India, Ministry of Labour, by its Order No L-36011/5/2001 [IR (M)], dtd 6-8-2001, in exercise of the powers conferred by clause (d) of sub-section (1)

and sub-section 2(A) of Section 10 of the Industrial Disputes Act have referred the following dispute to this Tribunal for adjudication

“Whether the action of the Management of Mormugao Port Trust, Goa in discontinuing the customary benefits of one hour Relieving Overtime enjoyed by the Class-III and IV employees of MPT Guest House w e f 1-10-2000 without issuing the Notice of Change under section 9A of the I D Act, 1947 is legal and justified ? If not, to what relief the workmen are entitled to ?”

2 Pursuant to the notice management appeared on 20-9-2001 vide (Exhibit-4) and the union vide (Exhibit-5) It is seen from the record, matter was fixed for filing Statement of Claim by union on 8-1-2002, and thereafter on 12-3-2002 at Goa It was again fixed on 13-3-2002 and 14-3-2002 On 14-3-2002, the Learned Counsel for the management Shri Anchan vide application (Exhibit-8) contended that despite service of notice union has not appeared which indicates that they have no animus to proceed further and in the event, the reference be disposed of It is seen from the record, union inspite of giving sufficient time after appearing disappeared, and not reappeared so far, which indicates it is not interested in prosecuting the reference and therefore the following order is passed —

ORDER

Reference stands disposed of for non-prosecution

S N SAUNDANKAR, Presiding Officer

नई दिल्ली, 29 अप्रैल, 2002

का. आ. 1689. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल पंचाट (सदर्थ संख्या 114/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-04-2002 को प्राप्त हुआ था।

[स एल-22012/22/99-आई.आर (सी-II)]

एन पी. केशवन, डैस्क अधिकारी

New Delhi, the 29th April, 2002

S.O. 1689.—In pursuance of Section 17 of the Industrial Disputes Act 1947(14 of 1947), the Central Government hereby publishes the award (Ref No 114/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 26-04-2002

[No L-22012/22/99-IR(C-II)]

N P KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sh Ramjee Pandey
Presiding Officer

Reference Number 114 of 1999.

Parties : Damagoria Colliery, C V Area of
M/s BCCL Management

Vrs.

Shri Jitan Turi

Appearances :

For the Management — Shri P K Das, Advocate

For the Workman — None
(Union)

Industry — Coal
State West Bengal

Date 04-04-02

AWARD

In exercise of powers conferred by the clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 Govt of India through the Ministry of Labour vide its order No L-22012/22/99/IR (CM-II) dated 30-07-1999 has referred the following dispute for adjudication by this Tribunal

“Whether the action of the management of Damagoria Colliery C V Area of M/s BCCL in fixing the basic wages of Sh Jitan Turi, Fitter as per the NCWA ‘V’ at the time of regularisation is proper ? If not, to what relief is the workman entitled ?”

After receiving the reference, summons were sent to the parties by registered post In response to the summon management appears through Shri P K Das, Advocate Although summon was served to the union on 05-10-01 but despite repeated adjournments for this purpose none appeared on behalf of the union (workman) which indicates that the union is not interested to contest the dispute The management also did not file any written statement indicating the fact that management is also not interested with the dispute And in this view of the matter a No dispute Award is passed

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 29 अप्रैल, 2002

का. आ. 1690. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल पंचाट (संदर्भ संख्या 52/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-04-2002 को प्राप्त हुआ था।

[सं. एल-22012/270/98-आई.आर.(सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 29th April, 2002

S.O. 1690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 26-04-2002.

[No. L-22012/270/98-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present : Sh. Ramjee Pandey
Presiding Officer.

Reference Number 52 of 1999.

Parties : Kunustoria Colliery
M/s. E.C.L. ... Management

Vrs.

Shri Alijan Mia ... Workman

Appearances :

For the Management — Shri T.N. Mitra,
Personnel Manager

For the Workman — None
(Union)

Industry : — Coal
State : West Bengal
Date : 1-04-02.

AWARD

In exercise of powers conferred by the clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its order No. L-22012/270/98/IR (CM-II) dated 05-05-1999 has referred the following dispute for adjudication by this Tribunal.

“Whether the action of the management by not rectifying the actual date of appointment due to non-availability of the relevant records pertaining to Sh. Alijan Mia, Underground Loader of Kunustoria Colliery of M/s. E.C.L. is legal and justified ? If not, to what relief the workman is entitled ?”

After receiving the reference, summons were sent to the parties by registered post. In response to the summon

the management appeared through Shri T.N. Mitra, Personnel Manager on 05-10-01 with a petition for time for filing written statement. But thereafter the management remained absent till today, and no written statement has been filed by the management. The summon by registered post was received by the Union on 21-09-01 but still despite repeated adjournment none appeared on behalf of the workman which indicates that the workman is not interested to contest the dispute. And hence a No Dispute Award is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 29 अप्रैल, 2002

का. आ. 1691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल पंचाट (संदर्भ संख्या 119/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-04-2002 को प्राप्त हुआ था।

[सं. एल-22012/440/98-आई.आर.(सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 29th April, 2002

S.O. 1691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 26-04-2002.

[No. L-22012/440/98-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present : Sh. Ramjee Pandey
Presiding Officer.

Reference Number 119 of 1999.

Parties : Khairabad Colliery, Salanpur Area
of E.C.L. ... Management

Vrs.

Sh. Ramakanta Mahato ... Workman

Appearances :

For the Management — Shri P. Goswami, Advocate.

For the Workman — Shri S.K. Pandey, Chief
(Union) General Secretary.

Industry : — Coal
State : West Bengal
Date : 22-03-2002.

1429 02/02-12

AWARD

In exercise of powers conferred by the clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947, Govt of India through the Ministry of Labour vide its order No L-22012/440/98/IR (CM-II) dated 03-08-1999 has referred the following dispute for adjudication by this Tribunal

“Whether the action of the management of Khairabad Colliery, Salanpur Area of ECL, P O Panurua, Distt Burdwan in dismissing the services of Sh Ramakanta Mahto is justified ? If not, to what relief is the workman entitled ?”

After receiving the reference, from the Ministry notices were issued to both the parties and in pursuance of notices the management appeared through Shri P Goswami, Advocate and the Union (Workman) appeared through Shri S K Pandey, Chief General Secretary and both the parties filed their respective written statements

The brief facts of the case is that the workman e g Ramakanta Mahato was regular employee of M/s ECL and he was posted as Under Ground Loader at Khairabad Colliery in Salanpur area The workman became absent from duty from 31-08-97 to 22-10-97 for which he was given copy of charge sheet and after domestic enquiry he was dismissed from service as charge against him was taken to be proved

The case of the union (Workman) is that the workman became absent from duty unintentionally rather he suddenly fell ill and was under medical treatment of Company Doctor of BALCO at J K Nagar for viral hepatitis fever due to which he could not obtain proper permission from the management nor he could inform any authority regarding his absence Further case of the workman is that he submitted his medical certificate to the management and moreover it was his first default during his total service period and hence the order of dismissal is unwanted and illegal

The case of the management is that during domestic enquiry the misconduct of workman has been proved and from enquiry report it is clear that the workman was a habitual absentee and considering the aspect of the matter the management has correctly dismissed the workman

During hearing on the point of fairness of domestic enquiry the Union did not challenge the fairness Moreover it has been found that the domestic enquiry was conducted in presence of the workman and he was also given opportunity for giving evidence And in this light of the matter both the parties made their submission on the basis of evidences and documents produced during the domestic enquiry

Although Learned Lawyer for the management submitted that the workman was a habitual absentee but

after perusal of the documents produced during enquiry and the charge sheet given to the workman it is clear that the workman was not charged of any previous absence nor the enquiry proceeding also was related with any previous absence of the workman and hence the submission of the learned lawyer in this regard does not appear to be acceptable

It was secondly contended by learned lawyer for the management that due to the absence of workman the work of the management was suffering and there was no alternative than to dismiss him from the service On the other hand it was submitted on behalf of the workman that the workman became absent from his duty only for a period of less than two months and that also due to the fact that he was ill It was also submitted that no sooner the workman was served with a copy of charge sheet he submitted his explanation informing the management that he was ill and he also filed a medical certificate to that effect

In view of contrary submission I perused the documents filed by the management From the copy of charge sheet it is clear that the workman has explained the charges in the way that he was ill and he also enclosed the medical certificate therewith Before Enquiry Officer also the workman contended that due to his illness he became absent from his duty for alledged period The Enquiry Officer has not given the finding that the plea of workman regarding his illness was false And hence in my opinion the workman became absent due to unavoidable circumstances beyond his control and there is no misconduct on the part of the workman

As regards the quantum of punishment it is undisputed that dismissal from service is a capital punishment and in facts and circumstances of the case it was unwanted In this view of the matter also I find that order of dismissal is not justified The Enquiry Officer also after considering the nature of misconduct of the workman, has given opinion that the stoppage of one annual increment would be sufficient punishment for such misconduct of the workman Although management was not bound to accept the opinion of the Enquiry Officer but in the facts and circumstances of the case I find that opinion of Enquiry Officer is justified, the punishment was more rational and the same should have been respected by the management

After considering all the facts and circumstances of the case, in view of the above discussion the order of dismissal is set aside The management is directed to reinstate the workman in service with full wages However the management will be at liberty to punish the workman by way of stoppage of one annual increment In above manner Award is passed

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 18 अप्रैल, 2002

का.आ. 1692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबंध में निम्नलिखित आदेशों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 378/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-4-2002 को प्राप्त हुआ था।

[सं.एल-12011/262/2000-आई.आर. (बी-II)]
सी. गंगाधरण, अवसर सचिव

New Delhi, the 18th April, 2002

S.O. 1692.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 378/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 18-04-2002.

[No. L-12011/262/2000-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer,

C.G.I.T.-cum-Labour-Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 378/2001

Date of conclusion of hearing 28th March, 2002

Date of Passing Award 10th April, 2002

Between :

The Management the of Asstt. General Manager,
Andhra Bank, Zonal Office,
Dharmanagar,
Bhubaneswar—02. 1st Party—Management

AND

Their Workmen,
Represented through the General Secretary,
Orissa State Andhra Bank Employees' Union,
Hanuman Bazar,
Bhubaneswar—2. 2nd Party—Union

APPEARANCES ;

Shri T. V. S. Chandra Sekhar,
Chief Manager,
Andhra Bank Zonal Office,
Bhubaneswar. For the 1st Party—Management
Shri Manoranjan Das,
General Secretary,
Orissa State Andhra Bank Employees

Union For the 2nd Party—Union

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-12011/262/2000-IR (B-II) dated 13-02-2001 :

“Whether the posts proposed in IBR Cells in the Zonal Office of Bhubaneswar and Berhampur of Andhra Bank belong to the category of Computer Terminal Operator (CTO)? If so, whether the demand of Orissa State Andhra Bank Employees Union for payment of Special Allowance applicable to the post of C.T.O. is justified. If not justified, what relief the workman concerned are entitled to?”

2. The parties to this dispute are the Assistant General Manager, Andhra Bank, Zonal Office, Dharmanagar, Bhubaneswar (hereinafter called as the 1st Party—Management) and their workmen, represented through the General Secretary, Orissan State Andhra Bank Employees' Union, Hanuman Bazar, Berhampur (hereinafter called as the 2nd party—Union).

3. The case of the 2nd Party—Union runs thus :

According to the settlement dated 29-10-1993 signed under Section 2(p) of the Industrial Dispute Act, selection of personnel for operating computer from among the clerical employees would be made and for payment of additional monetary allowance would be paid to them as computer operator allowance. In the year 2000 two Zonal Offices of Andhra Bank situated at Bhubaneswar and Berhampur were also required to set up their respective zonal IBR Cells. The Berhampur Zonal Office has been merged with Bhubaneswar Zonal Office since December, 2000. The Management of Andhra Bank from its Head Office level had identified the operators' posts in the IBR Cells as Computer Terminal Operator. The Head Office of the Bank had communicated the identification of Two Computer Terminal Operators for IBR cell of Berhampur Zone and four

Computer Terminal Operators for Bhubaneswar Zonal IBR cell. Direction was given to conduct the aptitude test. Accordingly, the aptitude test was done and results of the said aptitude tests were declared on 15-4-2000. But surprisingly, these Zonal Offices of the bank, instead of posting the personnel selected in the said aptitude test against the posts in the IBR cells, issued notifications calling for applications from typists for the post of Data Entry Operators to be posted at IBR Cells. The 2nd Party Union asked the 1st Party—Management to post Computer Operators in the IBR Cell from the selected candidates but the 1st Party—Management did not respond. So the dispute was raised, reconciliation failed. Hence the reference.

4. The 1st Party Management has filed their Written Statement. Their case is that, the nature of duties of the Computer Terminal Operator is not equivalent to the duty of Data Entry Operator. So, the candidates selected in the aptitude test for the post of Computer Terminal Operator can not be appointed and no allowance can be paid to the Data Entry Operator. The main stand taken by the 1st Party Management is that the jobs under the IBR Cells involve only data entry operation which is nothing but job of typing work and do not involve any computer work in as much as the work of data entry requires only typing aptitude and speed selection of these personnel is made from amongst the typists only and data entry operators are only to feed data. So according to them, the occasional function related to the computer operators will not entail payment of computer operators special allowance. It has been further pleaded that the selection of computer operators requires a successful qualifying test as a pre-requisite eligibility as per the norms fixed by the Management in terms of settlement, dated 9-1-1995 and whereas discharge of duties of data entry operator working in Inter Branch reconciliation cells is made on selection basis based on a subsisting settlement entered into on 19-3-1981.

5. On the pleadings of the above parties the following Issues have been settled :

1. Whether the Posts proposed in IBR Cells in the Zonal Office of Bhubaneswar and Berhampur of Andhra Bank belong to the category of Computer Terminal Operator ?
2. Whether the demand of Orissa State Andhra Bank Employees Union for payment of Special Allowance applicable to the post of Computer Terminal Operator is justified ?
3. If not, what relief the workman concerned are entitled to ?

6. Both the parties have declined to adduce any oral evidence and they have addressed the Court basing on the documents. On behalf of the 2nd Party Union two documents has been exhibited as Ext. 1 and 2. On behalf of the 1st Party Management, two documents have been exhibited as Ext. 'A' and 'B'.

FINDINGS

Issue No. I, II & III :

7. The case of the 2nd Party is that, the work done by the Computer Terminal Operator and the Data Entry Operator are same. So according to them the settlement, dated 9-1-1995 would be applicable. On the other hand, the 1st Party Management has taken the stand that the duties of the above two posts are quite different. Ext. 'A' (Annexure 'A') reflects the policy and procedure concerning the selection of computer operators. Under Para 9 it has been provided the list of employees qualifying the aptitude test in each unit will be rearranged as per their seniority. Candidates equal to the number of posts of Computer Operators will be posted commencing from the top of the list and the remaining qualified employees will be kept in a panel. The panel so prepared shall be valid for a period of three years from the date of announcement of results or till it is exhausted, whichever is earlier. In Para 11 it has been provided that persons selected as Computer Operators and also others in the panel may be given training as considered appropriate by the bank. This position has not been disputed by both the parties. Ext. 'B' on which, the 1st Party Management has relied is regarding clarification regarding payment of Computer Operator Allowance. It provides that, the special allowance payable to data entry operator shall be Rs. 250/- per month and the special allowance payable to other computer operators shall be Rs. 360/-. It further provides that, the special allowance specified shall be payable only to such operators assigned actual data entry and computing work at counters or otherwise but not using those who are using the machines only.

8. The main grievance of the 2nd Party is that both the computer terminal operator and Data Entry Operator are attending the same work. But the 1st Party Management is giving different designation because the Computer Terminal Operator is getting higher allowance whereas the Data Entry Operator is getting the lower allowance. The 2nd Party has relied on Ext. 1 which the settlement, dated 2-11-1998. Clause 7 of the said settlement provides the following :

"It is agreed to pay Computer Operator allowance by converting, as a one time measure, all the existing Data Entry Operators, PC based Telex Operators and Encoders in the Bank, as

Computer Operators with effect from 2-11-1998. Such employees will continue to discharge the existing duties or Computer Operator duties as required by the Bank, as per administrative requirements. Such conversion shall also include all such employees in whose case the procedures of filling of respective vacancies has already been initiated as on the date."

Basing on this it has been argued on behalf of the 2nd Party that, the Computer Terminal Operator allowance was allowed to the Data Entry Operator, PC based Telex Operators and Encoders in the Bank because it was thought that, the nature of job is same. So, now the 1st Party Management cannot take different view by saying that the nature of the duties performed by the Data Entry Operator are different from the duties of Computer Terminal Operator. In this regard, it has been submitted on behalf of the 1st Party Management that, this was done for one time measure and it would not be applicable for future.

9. After hearing of both the parties and after perusal of the documents available in the record, I am inclined to accept the submission made on behalf of the 2nd Party. Once as per Ext. 1 it has been decided that, the Computer Terminal Operator allowance will be paid to the Data Entry Operator PC based telex operator and encoder for the Bank it would be presumed that, it was thought that the duty of the above Computer Operators are of same nature. If that was done for one time measure there is no compelling ground to tell that the duties of the post of Data Entry Operator is not equivalent to the post of Computer Terminal Operator. In my opinion, the post of Data Entry Operators should be equal to the post of Computer Terminal Operator and the special allowance paid to the Computer Terminal Operator should be paid to the Data Entry operator.

10. So, the answer to the reference is that the post proposed in IBR Cells in the Zonal Office of Bhubaneswar and Berhampur of Andhra Bank belong to the category of Computer Terminal Operator (CTO) and (ii) that the special allowance paid to the Computer Terminal Operator also be paid to the Data Entry Operator.

11. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नई दिल्ली, के पंचाट (संदर्भ संख्या 16/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2002 को प्राप्त हुआ था।

[सं.एल-12012/338/95-आई.आर. (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 22nd April, 2002

S.O. 1693.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947),

the Central Government hereby publishes the award (Ref. No. 16/97) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 19-04-2002.

[No. L-12012/338/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT,
NEW DELHI

I.D. No. 16/97

Present: Sh B.N. Panday, Presiding Officer

Smt. Mangti w/o Sh. Attar Singh

C/o Punjab National Bank,

Canteen Workers Union, Delhi,

WZ-677, Shiv Nagar Extn. Jail Road,

New Delhi-58.

....Workman/Union

Versus

Punjab National Bank,

Atma Ram House,

10th Floor, 1, Tolstoy Marg,

New Delhi-1

....Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/338/95-I.R. (B-2) dated 31-12-96 has referred the following industrial dispute to this Tribunal for adjudication:-

"Whether the action of the management of Punjab National Bank in terminating the services of Smt. Mangti Wife of Shri Attar Singh, Sweeper w.e.f. 10-1-94 is legal and justified, If not what relief the workman is entitled to"?

2. In brief case of the workman as narrated in her statement of claim is that she had been in employment of the P.N.B., the opposite party since 1970 continuously as sweeper. She was paid wages on voucher for the last so many years. Her last drawn wages were Rs. 500/- P.M. less than minimum wages which was fixed by the Delhi Govt. for unskilled worker. She worked all along to the entire satisfaction of the management and she did not give any complaint; that she requested the branch manager of the bank to maintain her service records and regularised her in service as she was appointed against the permanent job of cleaning of the bank premises and she approached the manager for it again and again but all in vain and ultimately the bank management terminated her services w.e.f. 10-1-94 and asked her not to come for resuming duty in bank. No charge was levelled against her nor any reason was assigned, neither any notice or retrenchment compensation was given to her; that the action of the management in terminating her services was in clear violation of Section 25 of the I.D. Act and it also amounts to unfair labour practice. It is illegal, unjustified, malafied, arbitrary and also against the established principles of natural justice and fair play. Therefore, she prayed for reinstatement in service with full back wages and continuity of service.

3. The claim of the workman was contested by the opposite party/bank by way of filing a written

statement raising preliminary objections that the present dispute cannot be termed as an industrial dispute under Section 2(k) of the I.D. Act as Smt. Mangti is not a workman within the meaning of the said act, that she was engaged by Branch Manager of the bank purely in leave arrangements as the permanent part-time sweeper had absented/proceeded in leave, that services of the workman came to an end on completion of options/leave period of the permanent part-time sweeper; that the case of Smt. Mangti cannot be termed as termination as per provisions of Section 2(oo) (bb) of the I.D. Act, that even otherwise she has worked for 18 days in the year 1988, 24 days in 1989, 26 days in 1990, 24 days in 1991, 22 days in 1992, 20 days in 1993 and 5 days in 1994 that she never worked in continuous service for 240 days in any 12 consecutive calendar months; that even prior to that she never worked continuously for 240 days or more in any 12 consecutive calendar months, therefore, her disengagement cannot be termed as retrenchment under provisions of the I.D. Act. Besides the preliminary objections, it was further, inter-alia alleged that in terms of the settlement of the bank dated 7-5-84 arrived with the majority union AIPNB Employees Federation it was settled that vacancies of part-time sweeper would be determined on the parameters of the sweeping area of the branch/office and the number of hours to be put in. Further if any part-time sweeper proceeds on leave, Branch Manager can engage a part-time sweeper on temporary basis who is eligible as per eligibility parameters provided in the bank's rules. Mrs. Mangti was engaged while the permanent part-time sweeper was absenting or was on leave, she was given some proportionate scale wages as drawn by the permanent part-time sweeper but at the initial stage of the subordinate scale. Further, as and when permanent part-time sweeper came and joined, services of Smt. Mangti came to an automatic end, as such alleged termination cannot be termed as termination with in the view of the provisions of Section 2(oo)(b) of the I.D. Act. Since the bank has surplus part time sweeper, Smt. Mangti cannot be considered for absorption in bank service. Even otherwise she has not completed 240 days of continuous service; therefore, she is not eligible for any benefit under section 25F of the I.D. Act. The contentions raised by the workman were denied and it was further alleged that there is no question of reinstatement with full back wages and continuity of service as claimed by her and in the instant case principles of natural justice and the fair play are not attracted; that she was only engaged in leave gap arrangements for few days only, therefore she is entitled to no wages at all.

4. Workman also filed rejoinder to the written statement of the management wherein the assertions made in the written statement were denied. She reiterated to her earlier contention and alleged that she was engaged against the regular job for cleaning the bank premises job which is of regular nature that she was illegally deprived of the legal benefits of the workman. She was not issued any appointment letter and her termination is a clear case of illegal termination and as such she is entitled for benefits under the provisions of the I.D. Act.

5. In support of her case the workman filed her own affidavit Ex. WW1/1 and was also cross-examined by the representative of the management. Certain documents were also filed out of which genuineness of two papers i.e. one regarding some payment and the next attendance register of 1994 were not admitted but photostat copy of her credit card dated 9-6-94 and certificate showing period and number of days of working and payment dated 12-9-98 were admitted by the representative of the management. She had also moved an application dt. 17-9-98 for summoning salary bill, attendance register voucher and original bank proof of 1984 against which Shri Vishwa Bhatia custodian of the records filed his affidavit dated 8-2-99 deposing that he personally tried to locate and search register and relevant records of Smt. Mangti Devi but the same was not traceable. On the other hand, Renu Sharma the then Asstt. Manager of the Bank filed her affidavit on behalf of the bank and she was also cross-examined by the workman side.

6. I have heard the representatives of both the sides and also considered their submissions.

7. In her affidavit she supported her case and inter alia stated that she was initially appointed by P.N.B. South Ext. Branch New Delhi in the year 1970 for performing the sweeping/cleaning duty of bank premises. But she could adduce no other oral or documentary evidence in support of her case that she was appointed in the year 1970 and since then her remained in continuous service till the date of her alleged termination. In her cross-examination she denied that she was used to be employed on any leave vacancy. Again she stated that whenever an employee used to go on leave it was the fact that either employee used to go on leave it was fact either employee concerned used to inform her one day earlier or bank authority used to call her. She further stated that "I have never worked in the bank continuously for one year at any time". She further stated that "it is wrong to say that I had not worked in the bank for 240 days in a year". As against it in her cross-examination MW1 Smt. Renu Sharma, Asstt. Manager of the bank stated that "as per record of the bank the workman was engaged in service of the bank in the year 1988 in the leave vacancy and since the workman was not regular employee question of her termination does not arise" she also stated that the payment of the salary to the workman was made through voucher. The documentary evidence on the record shows that she worked between 16-4-82 to 19-4-82 for 4 days, 28-6-83 to 30-6-83 for 3 days, 8-4-83 to 12-4-83 for 5 days, 9-11-83 to 30-11-83 for 18 days and 1-12-83 to 1-1-84 for 27 days, 23-3-82 to 5-4-82 for 13 days, 6-10-82 to 4-11-82 for 30 days. There is nothing on the record to show that she continuously worked for 240 days or more in any calendar year since 1970 to the alleged date of termination i.e. 10-1-94. According to her own admissions made in the cross-examination she was used to be engaged against leave vacancy only whenever any employee used to go on leave or was absent. Therefore she cannot be termed as, a regular employee. So after expiry of the period of leave or absence, her appointments used to come to an end automatically. She also failed to establish that she completed 240 days or more in any continuous 12 months or a calendar year. Therefore,

she cannot be said to be entitled to get benefit of section 25F of the I.D. Act. In any circumstance her alleged termination cannot be termed as retrenchment.

8. In view of the above discussions I find that there was no illegality or breach of any provisions of section 25F of the I.D. Act or any principle of natural justice or abuse of any process of law in her alleged termination. Hence, the action of the management of PNB in terminating the services of Smt. Mangti W/o Shri Attar Singh, Sweeper w.c.f. 10-1-94 as alleged by her was perfectly legal and justified. It requires no interference and the workman is not entitled to any relief. However, the parties shall bear their own costs. Award is given accordingly.

B.N. PANDEY, Presiding Officer
Dated 12 the April, 2002

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 57/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2002 को प्राप्त हुआ था।

[सं. एल-12012/646/89-डी.-II(ए)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd April, 2002

S.O. 1694.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. 57/90) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 19-04-2002.

[No. L-12012/646/89-D.II (A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI S. M. GOEL
PRESIDING OFFICER,

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

CASE NO: I.D. 57/90

R. K. Verma;
House No. 1697, Anand Biscuit Factory,
Nai Abadi, Rewari

..Applicant

Versus

General Manager,
Syndicate Bank,
Head Office Manipal

.. Respondent

Appearances ;

For the workman ; Workman in person

For the Management ; Shri Gopal Mahajan,
Advocate

AWARD

(Passed on 15-4-2002)

The Central Govt. vide notification No. L-12012/646/89-D.2(A) dated 24th of April, 1990 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Syndicate Bank in dismissing Shri R. K. Verma, Special Assistant from the services of the bank w.e.f. 20-8-1985 is justified ? If not, what relief the workman concerned is entitled to ?”

2. Today the workman appeared and filed an application for withdrawal of the reference. He has also made a statement that he does not want to pursue with the present reference and the same be dismissed as withdrawn. In view of the above, the present reference is returned to the Central Govt. as withdrawn. File be consigned to record. Central Govt. be informed.

Chandigarh

S. M. GOEL, Presiding Officer

15-4-2002

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 80/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2002 को प्राप्त हुआ था।

[सं. एल-17012/12/2001-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd April, 2002

S.O. 1695.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the

annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 19-04-2002.

[No. L-17012/12/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT : SHRI B. G. SAXENA,

PRESIDING OFFICER

REFERENCE NO. CGIT : 80/2001

LIFE INSURANCE CORPORATION

AND

SHRI SANTOSH BABULAL TAK

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute for adjudication vide Order No. L-17012/12/2001-IR (B-II) received on 07-12-2001.

SCHEDULE

“Whether the action of the management in relation to Pusad Branch of LIC of India to terminate Shri Santosh Babulal Tak, Wet Sweeper from service vide Order No. Ref. 98-A/05 dated 10-06-2000 is legal and justified? If not, what relief is the workman entitled to?”

The workman Santosh S/o Babulal Tak has submitted Statement of Claim that he was working as a Wet Sweeper in Branch Manager, LIC Branch Office, Talao Layout, Pusad, Distt. Yavatmal. He worked from 26-06-91 to 18-06-2000. He was terminated from service w.e.f. 16-06-2000. His termination is illegal. The Termination Order was issued for terminating his service w.e.f. 16-06-2000 where as he actually worked till 18-06-2000. The workman submitted his Statement of Claim on 04-01-2002.

Nobody appeared from the side of the management of LIC to represent the case of the management. The workman has submitted the order dated 18-06-2000 to show that the competent authority had discontinued his work in the Branch Office at Pusad, Distt. Yavatmal w.e.f. 16-06-2000.

On 25-02-2000 the workman Santosh B. Tak moved application that the management has not submitted any Written Statement and his case be decided ex-parte.

The case was adjourned to 11-03-2002 but no body appeared from the side of the management to submit Written Statement. The case was therefore fixed for 12-03-2002 for order.

The management of LIC did not submit any Written Statement and has not contested the case. In view of the above facts the reference is decided ex-parte.

ORDER

The management of LIC has not submitted any Written Statement and has not contested the case. The claim of the workman is therefore decided ex-parte.

Dated ; 12-3-2002

B. G. SAXENA, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 317/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2002 को प्राप्त हुआ था।

[सं.एल-12012/138/92-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd April, 2002

S.O. 1696.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 317/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 19-04-2002.

[No. L-12012/138/92-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT : SHRI B. G. SAXENA,

Presiding Officer

REFERENCE NO. CGIT : 317/2000

THE ZONAL MANAGER, BANK OF INDIA

AND

SHRI NARAYAN KRISHNAJI BANKER

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide Order No. L-12012/138/92-IR-BII dated 31-08-02 on following schedule :

SCHEDULE

“Whether the action of the management of Bank of India in treating the absence of Shri Narayan Krishnaji Banker from 30-09-86 as voluntary cessation of service and consequently releasing him from service w.e.f. 25-03-88 is justified ? If not, what relief the workman is entitled to ?”

In this reference the order dated 31-08-92 was bearing No. 12012/138/92. The matter in dispute was referred to C.G.I.T. Court, Jabalpur for adjudication. The file was received from C.G.I.T. Jabalpur by transfer on 31-05-2001 i.e. after about more than 8 years.

In this case the workman Narayan Kishnaji Banker has mentioned that he was appointed as Badli Sepoy in Bank of India on 18-12-84. He was absent from duty due to illness from 04-11-85 to 09-11-85 and his Leave Application was accepted on 21-01-86.

He again fell ill on 01-10-86 and had moved application for his illness on 02-07-87. He went to the Branch Managers Office with Medical Certificate dated 27-01-87 and 01-07-87 but he was not allowed to join duty. His service was terminated from 16-03-87. He claimed reinstatement with full back wages. The workman submitted his Statement of Claim on 15-09-92.

The management contested the case and represented that no Medical Certificate about illness was submitted by the workman to the management. He remained absent from duty from 30-09-86 without permission. He was also issued letter dated 13-10-86. On 23-12-86 he was informed by telegram to join duty. On 06-02-87 a letter was sent by the Zonal Manager informing the workman Narayan K. Banker that if he will fail to report for duty within 30 days of receiving of notice and will not submit satisfactory explanation for his absence, he would be treated as having voluntarily retired from service of the bank at the expiry of 30 days. The workman did not report for duty so vide order dated 25-03-88 he was declared to have voluntarily retired according to Clause XVI of the Bipartite Settlement dated 17-09-84

and the bank had a right to treat him retired voluntarily. The enquiry was not required in such a case.

I have heard the Counsel for the workman and the Counsel for the management and have considered entire oral and documentary evidence on record.

The statement of the workman Narayan Krishnaji Banker was recorded on 19-04-99. He admitted in cross-examination that he had not submitted any document to show that he was ill from 01-10-86. He further says that he remained admitted in Government Hospital, Akola from 01-10-86 to 01-07-87. He says that he had not submitted any document in this Court to show regarding the admission in hospital on 01-10-86 or his continuous treatment in the hospital upto 01-07-87. He also did not submit any document to show that he was discharged from hospital on 01-07-87.

The workman further admitted in cross-examination that he had received the notice from the management on 16-02-87 in which he was directed to join duty. He further stated that he will not produce any doctor in evidence regarding the issue of Medical Certificate or his treatment in Akola Government Hospital.

The workman Narayan K. Banker further says that on 18-02-87 he had gone to the Bank Manager and had submitted the reply of the notice which was received by him on 16-02-87. The workman does not say anywhere that he was discharged from hospital on 18-02-87 and was fit to resume his duty. The workman himself says that he was admitted in hospital from 01-10-86 to 01-07-87. In these circumstances his statement that he went to the bank on 18-02-87 to submit reply of the notice becomes totally unreliable.

The management has submitted the affidavits of witnesses W.M. Sawalapurkar and V.N. Murti. These witnesses had submitted affidavits on 03-07-2001. The counsel for the workman or the workman did not prefer to cross-examine these witnesses though this case was adjourned several times to provide opportunity to the workman to cross-examine these witnesses. The counsel for the workman submitted Written Arguments on 31-12-2001. Both the parties argued the case orally on 22-01-2002.

The management of the bank has submitted documents, letter dt. 23-12-86 was issued to the workman for his absence from duty from 30-09-86. Telegram was sent to him on 23-12-86 directing him to report for duty immediately.

Registered letter No. MA/O/KA/N.Z.O./PERS/177 dt. 06-02-87 was sent to him that if he will not report within 30 days of receiving of this notice it will be presumed that he has voluntarily retired from

service. The workman has admitted in his statement in this Court that this notice was received by him on 16-02-87. On 25-03-88 the Zonal Manager passed the order that the workman Narayan K. Banker had not reported for duty upto 16-03-87 in spite of receiving the notice on 16-02-87 and he remained absent from duty from 30-09-86 till 25-03-88 i.e. for more than 90 consecutive days. No explanation had been submitted by him for his unauthorised absence. Therefore under Clause XVI of the Bipartite Settlement between the workman and the management dt. 17-09-84 he will cease to be in service under the provision of Clause XVI of the above settlement.

In view of the above circumstances and evidence on record the action of the management of Bank of India in treating the absence of Shri Narayan Krishnaji Banker from 30-09-86 as voluntarily cessation of service and consequently releasing him from service w.e.f. 25-03-88 is legal and justified.

The counsel for the workman has also submitted ruling 2000 (2) L.L.N. 942 Supreme Court of India in case Syndicate Bank versus General Secretary, Syndicate Bank Staff Association & another.

In this ruling the Hon'ble Supreme Court has held that bank will be well within its right to invoke the provision of Bipartite Settlement and treating the employee to have voluntarily abandoned his service. There was no need for the bank to hold any enquiry before passing the order treating him to have abandoned his service.

ORDER

In view of the circumstances and evidence discussed above the action of the management of Bank of India in treating the absence of Shri Narayan Krishnaji Banker from 30-09-86 as voluntarily cessation of service and consequently releasing from service w.e.f. 25-03-88 is justified.

The workman Narayan Krishnaji Banker is not entitled to any relief claimed by him.

The reference is answered accordingly.
Dated 14-3-2002

B. G. SAXENA, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार सेटल बैक ऑफ इंडिया के प्रबंधन के संबंध में जिनके और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अथवा न्यायालय नागपुर के पंचाद (संदर्भ संख्या 47/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2002 को प्राप्त हुआ था।

[सं.एल-12012/67/95-आई.आर. (बी-II)]
सी. गंगाधरन, अवसर सचिव

New Delhi, the 22nd April, 2002

S.O. 1697.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 19/04/2002.

[No. L-12012/67/95-JR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR PRESENT
SHRI B.G. SAXENA, PRESIDING OFFICER

REFERENCE NO. CGIT : 47/2001

THE R.M. CENTRAL BANK OF INDIA

AND

THE PRESIDENT, CENTRAL BANK STAFF
UNION

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-12012/67/95/IR (B-II) dated: 10-07-95 on following schedule.

SCHEDULE

“Whether the action of the management of Central Bank of India, Nagpur in dismissing Shri Vijay Patiram Ekorla, Part-time Safai Karamchari, from service w.e.f. 01-12-93 is legal and justified? If not, what relief is the said workman entitled to?”

The representative of the workman had appeared in this Court on 03-10-2001. He had taken time for filing Statement of Claim. No Statement of Claim has not been filed by the workman in this Court. The workman and his representative also did not move any application to show that he had filed any Statement of Claim at C.G.I.T., Jabalpur.

Nobody appeared from the side of management to contest the case.

Both the parties are absenting and have not produced any Statement of Claim or any documents concerning the dispute in this Court.

The reference is disposed of for want of prosecution.

ORDER

No Statement of Claim has been filed by the workman. The reference is disposed of for want of prosecution.

B.G. SAXENA, Presiding Officer
Date 11-3-02

नई दिल्ली, 24 अप्रैल, 2002

का.आ.1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ संख्या 46 ऑफ 1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं.एल-12011/60/99-आई.आर. (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 24th April, 2002

S.O.1698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (47 of 1947) the Central Government hereby publishes the award (Ref. No. 46 of 1999) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 23-04-2002.

[No. L-12011/60/99-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT KOLKATA

(Reference No. 46 of 1999)

Parties : Employers in relation to the management
of Bank of Baroda.

AND

Their workman

Present : Mr. Justice Bharat Prasad Sharma
.....Presiding Officer

Appearance:

On behalf of Management

Mr. A.K. Samaiyar, Senior Manager.

On behalf of Workman

Mr. P. Majumdar, General Secretary
of the Union.

State : West Bengal. Industry : Banking.

Dated : 12th April, 2002.

AWARD

By Order No. L-12011/60/99/IR (B-II) dated 21st October, 1999 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Bank of Baroda in the withdrawal of the assignment of Daftari from Sh. Ram Achal Dhuria, sub-staff by issuing notice under Section 9A of the I.D. Act, 1947 while allowing Sh. Meghnath Bhattacharjee who is junior to Sh. Dhuria to continue as Daftari is legal and justified. If not, what relief is Sh. Dhuria entitled?”

2. The present reference relates to withdrawal of the Daftari allowance to a Peon of the Bank of Baroda, Howrah Branch. From the written statement filed on behalf of the union it appears that there was a bipartite settlement and according to Clause 4 of this settlement the duty of Daftari had to be assigned on the basis of seniority to a Peon and accordingly one Ram Achal Dhuria was assigned the duty by the Bank through a letter dated 08-01-96, but the Bank subsequently withdrew the assignment of Shri Dhuria by a letter dated 15-08-1998 issued by the Senior Manager, Howrah Branch. It is further stated that the duty of Daftari was assigned to one Meghnath Bhattacharjee who was junior in service to Shri Dhuria and, therefore, the union has taken exception to it that though the junior Peon, Meghnath Bhattacharjee has been allowed to continue as Daftari, this facility to Shri Dhuria has been withdrawn, which is improper, illegal and discriminatory. With the written statement some papers were also annexed relating to the matter.

3. The management has also filed a written statement in which it has been stated that the claim made by the union on behalf of Ram Achal Dhuria is not based on any fact or rule and that only vague allegation has been made. It has been denied that the management had no authority to withdraw the allowance for the duty assigned to Shri Dhuria. It is also stated that the claim for continuation of this special allowance to Rma Achal Dhuria is not maintainable. It is stated that an impression is sought to be created that the special allowance is sought to be withdrawn by the management by asking Ram Achal Dhuria not to perform duties carrying special allowance and that such a withdrawal can be made by way of punishment only. It has been stated that it is incorrect to submit that special allowance once granted can never be withdrawn, because whatever have been done is in accordance with the paragraph 4 of the bipartite settlement. It is further stated that the first bipartite

settlement dated 19-10-1966 on which the union has placed reliance lays down certain provision in Clause 5.9. According to the management the provisions of Clause 5.9 can be interpreted in the manner that the special allowance is payable only so long as the workman performs duties carrying special allowance over and above his normal duties. It further postulates that in case of a workman appointed permanently in a post carrying special allowance, it cannot be withdrawn. But, in all other cases when such assignment is additional, it can be withdrawn at any time regard being had to the facts and circumstances of each individual case. It is also further stated that Clause 5.9 of the first bipartite settlement makes it clear that a line of distinction is drawn in the matter of payment of special allowance between workman appointed on permanent basis and the workman assigned additional duties carrying special allowance. It is also further stated that paragraph 3(i) of the bipartite settlement dated 31-10-1979 has also been quoted out of context by the union because withdrawal of special allowance was engrained and accepted in the bipartite settlement as an accepted mode of punishment pursuant to disciplinary action. The effect, it is stated that the union is wrongly purporting to contend that withdrawal of special allowance in the case of Ram Achal Dhuria is a deemed punishment. It is stated that this contention is contrary to and inconsistent with the spirit of paragraph 3(i) of the bipartite settlement of 1979 which was incorporated in partial modification of Clause 19.6 of the settlement of 1966. It is stated that if the spurious contention of the union is accepted, every genuine case of withdrawal of special allowance permitted under Clause 5.9 of the first bipartite settlement would be a deemed punishment and it will have a catastrophic effect leading to total chaos in the banking industry. It is further stated that the Howrah Branch of the Bank of Baroda was headed by a Senior Branch Manager depending on business including aggregate deposit and advances. It is also further stated that the branches are periodically classified and based on such classification the Howrah Branch was classified as very large branch from large branch with effect from 01-05-1995. It is also stated that consequent upon such reclassification, Howrah Branch was to be headed by a Chief Manager and the then Senior Branch Manager was asked to officiate as Chief Manager. It is also further stated that in accordance with the prevailing guidelines a Chief Manager is provided with a Head Peon and normally such provision is applicable only in case where there is a permanent Chief Manager and not an acting Chief Manager. It is stated that in this background the management, though not obliged to provide Head Peon to the acting Chief Manager of the Howrah

Branch provided a Head Peon temporarily in the Howrah Branch. Thereafter assigned special allowance carrying post of Daftari to Shri Ram Achal Dhuria purely on temporary basis with effect from 21 January, 1997 at the extension counter of Howrah Branch. Similarly, the duty of Head Peon was also assigned to one Lakshman Prasad, another subordinate staff and later it was withdrawn. It is stated that it resulted in series of reallocation in special allowance carrying assignment including that of Shri Ram Achal Dhuria. It is further stated that the management accordingly issued a notice to Ram Achal Dhuria under section 9A of the Industrial Disputes Act giving 21 days prior notice before withdrawing the assignment of additional duty of Daftari. It is in this context stated that the union has no right to raise any objection under the bipartite settlement and the action of the management of the Bank is legal and bonafide. Therefore, the reference is fit to be rejected outright. It has also been further stated that the allegation levelled by the union on behalf of Ram Achal Dhuria is incorrect that the order of withdrawal of special allowance of Shri Dhuria was illegal and arbitrary. It is stated that the union is not justified in saying that the management had no power to rectify any mistake in assignment of duties of Daftari to a junior than Ram Achal Dhuria in the Howrah Branch extension counter. It is stated that the letter issued in favour of Shri Dhuria regarding assignment of additional duties of Daftari is very clear and Shri Dhuria was assigned additional duty as Daftari with effect from 21-01-1997 until further instruction by a letter dated 20-01-1997 and this assignment was accepted by Shri Dhuria in writing by a letter dated 20th January, 1997. It is further stated that after re-categorisation of the Bank's Howrah Branch in accordance with the Bank's revised categorisation norms and administrative instructions, the Howrah Branch of the Bank was relegated from the position of very large branch to large branch, which is supposed to be headed by a Senior Branch Manager and accordingly the assignment of special allowance carrying duty of Head Peon to Lakshman Prasad was withdrawn. It is stated that it resulted in series of re-allocation in special allowance carrying assignments including that of Ram Achal Dhuria. It is also stated that before the withdrawal of Head Peon was effected another union, namely, Bank of Baroda Employees Union had questioned the continuance of payment of Head Peon allowance to Lakshman Prasad even after re-categorisation of the Howrah Branch and the said union had called upon the management to discontinue the special allowance being paid to the said Head Peon. It is stated that this request made by the Bank of Baroda Employees Union vindicated

the stand of the management and demolishes purported claim of sponsoring union. It is also further stated that so far as the case of Ram Achal Dhuria claiming seniority to Meghnath Bhattacharjee is concerned, it is so that Ram Achal Dhuria did not apply for posting at extension counter even though the Management had invited application, in terms of circular dated 15th July, 1991 and, therefore, as he refused to apply, Shri Dhuria became disentitled to be a paid Daftary allowance at Bank's Howrah Branch extension counter. Accordingly, it is stated that so far as withdrawal of special allowance of Ram Achal Dhuria is concerned, it cannot be termed as improper, illegal, arbitrary or unjustified and it has been done in accordance with the provisions of the settlement and rule 5.

4. Both the parties adduced evidence in support of their respective claims. So far as the management is concerned, it filed several documents and these documents have been marked Exts. M-1 to M-6. The union did not file any document separately, though some documents were annexed with the written statement.

5. So far as the oral evidence is concerned, only the concerned workman, Shri Ram Achal Dhuria has been examined on behalf of the union as WW.1. His statement is very brief. According to him he worked in the Howrah Branch Extension Counter as Daftari since 21-01-1997 and he also stated that whenever he was on leave, he received allowance of Daftari. In his cross-examination, he stated that he was appointed as a Peon and he was officiating as Daftary for which he was getting allowance. According to him in his cross-examination the extension counter was started in 1992 and at that time he was working at the Howrah Branch. He also stated that the Bank had issued a circular for establishment of Extension Counter and posting of staff there, but he had not opted for going to the extension counter and one Meghnath Bhattacharjee was then working as Daftary in the Extension Counter. He further stated in his cross-examination that the appointment of Daftari is made from amongst the Peons on the basis of seniority. He, however, stated that he had applied for the post of Daftary, but he could not remember when he applied and he also did not know whether any such paper was filed. He has further admitted that he used to get temporary allowance of Daftary in the Howrah Branch and when he learnt the details from Meghnath Bhattacharjee he applied for the post of Daftary at Extension Counter. It has been suggested to him that he was given a letter on 15-05-1998 regarding his reversion from the post of Daftary and he has denied it.

6. So far as the management is concerned, it examined two witnesses. MW.1, Shri Dipta Pradip

Bose happens to be the Personnel Manager in the Bank of Baroda at Eastern Zonal Office, Calcutta. He was previously posted in the West Bengal Regional Office as Manager, Personnel. He stated that in subordinate cadre of staff basically there are Peons and they are assigned additional duties of Head Peon, Daftari, Cash Peon, Bill Collector and Armed Guard and for doing so, they are paid additional allowance as special allowance. According to him the present special allowance for Daftari is Rs. 352/- per month. He further stated that the branches of the Bank are categorised according to the volume of business and the categories are small, medium, large and very large and extra-ordinarily large. He further stated that in small category of branch Junior Manager of Scale-I happens to be Manager. Similarly in medium branch Officer of middle management Scale-II is posted as Manager. In large branch Officer of middle management of Scale-III is posted and in very large branch Officer of senior management of Scale-IV is posted and in extra-ordinarily large branch Officer of senior management of Scale-V and above is posted. He further stated that on 01-04-1993 Howrah Branch was a large branch and prior to it was a very large branch, according to him generally one Daftari is posted in the large branch and as per bipartite settlement a Daftari is posted by selection by a special order. He also stated that in a city where there is only one branch, the selection of Daftari is made from the branch itself and where there are several branches, it is made on the basis of seniority, city or townwise so far as permanent Daftari is concerned. He also further stated in case of vacancy till a permanent incumbent is selected on temporary posting of Daftari is made from the branch itself. The witness further stated that the posting of additional Head Peon or Daftari is made on the basis of the categorization of the branch. He also further stated that for issuing the order of payment of special allowance, there is a prescribed proforma according to the provision of the bipartite settlement and for posting of permanent incumbent and temporary incumbent, two different types of proforma are prescribed. He has stated that he knew Shri Ram Achal Dhuria, a Peon of Howrah Branch, who was assigned the duty of Daftari in 1997 which was temporary assignment, nothing significant has been stated by him in his cross-examination.

MW.2, Dilip Kumar Sinha Roy who happens to be Senior Manager, Administration, International Business Branch of the Bank of Baroda, posted at Calcutta. According to him from 29th May, 1997 to November, 2000 he was posted in the Howrah Main Branch as Manager. According to him at that time there was an Extension Counter at Howrah Main Branch. According to him when he had

joined Howrah Branch happened to be an exceptionally large branch, but in April, 1998 the branch was categorised as a large branch. He further stated that on extension counter there was one permanent Daftari posted, who had come from Baranagar Branch in 1982 on the basis of circular issued by the Regional Office, West Bengal. He further stated that when he joined Ram Achal Dhuria happened to be temporary Daftari posted in the extension Counter and according to him in extra large branch extra Head Peon is required to attend to the Chief Manager and when the branch was degraded, the post held by Shri Dhuria was withdrawn. Similarly, some other re-allocations were also made. According to him such withdrawal order was made in writing by him as Manager. He has stated in his cross-examination that the permanent Daftari was assigned by the Regional Office and he has also concluded by saying that appointment of Shri Dhuria was on temporary basis.

6. So far as the documents are concerned, Ext. M-1 is the agreement dated 03-10-1978. In this agreement paragraph deals with the appointment of Daftaries and additional Daftaries and it is stated in paragraph 4.5 that terms and conditions of payment of Daftari allowance shall be governed by Chapter V of the bipartite settlement of 1966 as modified, paragraph 4.6 also says that Daftari allowance would be paid on the basis of seniority as defined in the settlement provided he is sufficiently literate to perform such duties and at a place where there is only one branch, seniority would be reckoned branch-wise and at other places where there is more than one branch, seniority would be reckoned citywise. Similarly, it has also been stated that if the payment of allowance is to be made temporarily, branch-wise seniority shall be taken into account. In paragraph 4.7 also it has been stated that the Bank shall appoint one additional Daftari at branches where average number of vouchers per day in the preceding half year is one thousand or more and there is only one Daftari at such branch and in paragraph 4.8 it has been stated that at large branches and administrative offices etc. additional Daftari shall be appointed depending upon the quantum of work. Ext. M-2 is the bipartite settlement from 1966 to 1979 and in paragraph 5.9 of the settlement it is stated that a workman will be entitled to special allowance only so long as he is in charge of such work or performs such duties which attracts such allowance. It is further stated that whether a workman can be asked to cease to do such work or discharge such duties and consequently cease to draw such allowance will depend upon the terms of employment. For instance, a workman who is employed as a Head Clerk or a Stenographer cannot be deprived of his special allowance by asking him to work as an Ordinary

Clerk of asking him not to work as a Head Clerk or Stenographer. It further says that if a recipient of special allowance wants to give up the work or duties which entitles him to special allowance, he shall, if his request is granted, cease to draw such special allowance. In paragraph 5.10 it has been stated that a workman who is asked to work temporarily in a post carrying special allowance would be entitled to such special allowance pro-rata such period during which he occupies that post. Ext. M-3 is the letter by which the post of additional Daftari was assigned to Shri Dhuria and the letter says that the workman was required to perform duties of a Daftari with effect from 21-01-1997 until further instruction at Howrah Branch extension counter. The claim of the workman is that there was nothing in this letter to indicate that his assignment was of temporary nature and, therefore, withdrawal of his special allowance was illegal and improper. In this connection it has been pointed out that the very clause until further instruction indicates that the assignment was temporary in nature and it was also submitted on behalf of the management that the terms and conditions of this letter were accepted by the workman concerned in the proforma prescribed and attached with the letter, Ext. M-3 and, therefore, he cannot say that his assignment was not temporary in nature. In this connection, it has been pointed out on behalf of the management that Ext. M-4 which is a letter issued by the Secretary of the Bank of Baroda Employees Union, West Bengal indicates that the union had taken exception to this fact that in spite of the branch being degraded from Chief Manager's Branch to the Senior Manager's Branch one workman was continuing to receive allowance as additional Head Peon and it should be withdrawn. It is stated that this letter supports the analogy of the management that the additional assignment is on the basis of the categorisation of the branch and it should not be treated as permanent assignment. Ext. M-5 is the letter issued to Lakshman Prasad in accordance with the suggestion of the union as per Ext. M-4 by which was informed that his allowance as additional Head Peon is being withdrawn. Ext. M-6 is the circular issued by the Regional Office which is dated 15th July, 1991 in which it has been stated that when there is requirement of assignment of particular job, the application should be invited in prescribed proforma and in this connection it has been pointed out that the workman himself as WW-1 has admitted in his cross-examination that he had not applied for the post of Daftari when it was asked for and Meghnath Bhattacharjee had applied and was appointed.

7. It is, therefore submitted on behalf of the management that if the workman concerned has heart-burning that because Meghnath Bhattacharjee who was junior to him as Peon is continuing to draw

his special allowance as a Daftari, he should not be deprived does not appear to be proper because so far as the assignment of Meghnath Bhattacharjee is concerned, it was permanent and at that time the concerned workman had not applied, therefore, he did not get it. But, so far as his present assignment is concerned, it was temporary in nature and because the post itself was not required, the management rightly decided to discontinue his special allowance by asking him to cease his work as additional Daftari. It is, therefore, clear that the plea of the union in this case does not appear to have any basis or rationale.

8. The action of the management, in the circumstances, cannot be termed as illegal, arbitrary or unjustified. The workman, therefore, does not appear to be entitled to the relief as claimed by him. Accordingly, the reference is decided and disposed of.

B.P. SHARMA, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 13/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2002 को प्राप्त हुआ था।

[सं.एल-12011/110/99-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 24th April, 2002

S.O. 1699.—In pursuance of Section 17 of the Industrial Dispute Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 23-4-2002.

[No. L-12011/110/99-IR (B-II)]

C. GANGADHARAN, Uner Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 19th April, 2002

Present ; K. Karthikeyan,

Presiding Officer,

INDUSTRIAL DISPUTE NO. 13/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 7/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section

2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), between the Workman Sri K. Krishnan and the Management of Indian Bank, Chennai.)

BETWEEN

The General Secretary, : I Party/Claimant
Indian Bank Employees Union ;

AND

The General Manager, ; II Party/Management
Indian Bank, Chennai,

Appearance ;

For the Claimant ; Mr. R. Rengaramanujan
Advocate

For the Management ; ; M/s. King & Partridge,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-12011/110/99/IR (B-II) dated 31-12-99//06-01-2000

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai where it was taken on file as I.D. No. 7/2000. When the matter was pending enquiry in that Tribunal, as per orders of the Central Government, Ministry of Labour this case has also been transferred from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal the case has been taken on file as I.D. No. 13/2001 and notices were sent to the I Party/Claimant and the counsel for the II Party/Management informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 18-01-2001 to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case by filing their Claim Statement and Counter Statement respectively.

3. When the matter came up before me for final hearing on 28-03-2002, upon perusing the Claim Statement, Counter Statement, the other material papers on records, the documentary evidence let in on the side of the II Party/Management and after hearing the arguments advanced by the learned counsel for the II Party/Management alone, this matter having stood over till this date for consideration, this Tribunal has passed, on merits, the following.

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows ;

“Whether the management of Indian Bank is justified in terminating/discontinuing the services of Shri K. Krishnan and whether the demand of the Indian Bank Employees Association in the matter of regularisation of services of Shri K. Krishnan by the Indian Bank is justified? If not, what relief he is entitled to?”

2. The averments in the Claim Statement filed by the I Party/the General Secretary Indian Bank Employees Union (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union has raised this industrial dispute espousing the cause of the workman Sri K. Krishnan sub-staff, who had worked at Arumpuliyur branch of II Party/Management Indian Bank. The said workman Sri K. Krishnan was engaged as temporary sub-staff by the Branch Manager from 27-2-90 onwards. He worked continuously for more than 657 days and in particular he had completed more than 240 days between 1-1-93 to 31-12-93. Therefore, the petitioner Union representing the workman made a representation to the II Party/Indian Bank Management to regularise his services. The effort taken by the Union ended in a failure. Therefore, the Petitioner Union raised an industrial dispute on behalf of the concerned workman before the Assistant Labour Commissioner (Central) Chennai for conciliation but ended in failure and on submission by the Assistant Labour Commissioner (Central) the failure of conciliation report to the Govt., the Government has referred this dispute to this Hon'ble Tribunal to adjudicate this industrial dispute. This concerned workman Sri K. Krishnan had registered his name in the Employment Exchange. He had studied upto VIII standard and he belongs to Scheduled Caste. The Petitioner Union submits that the very fact that the workman is in continuous employment for 657 days amply proves that there was perennial need for the service of the workman. Though the employment of the workman is said to be temporary one, but in reality, it is not so. He had been engaged by the bank against the permanent vacancy for more than four years from the year 1990 onwards excluding weekly and declared holidays of the bank. Yet the management had not taken any action to regularise the service of the workman or to grant him temporary status and absorb him in a permanent vacancy that may arise in future. It is an unfair labour practice followed by the Respondent/

Management taking advantage of the economic conditions of the workman and after extracting work from him and just throw him out of his employment without any notice. The old colonial policy of hire and fire had been ruthlessly followed by the Respondent/Management being a public sector management. The Petitioner Union submits that the bankman of this country are covered by Bipartite settlement and Awards. The Bipartite Settlement dated 19-10-66 defined temporary employees in Chapter XX (III) clause 20.07, 20.08 and 20.12. Though it is said to be temporary appointment on daily wages as and when required, continuous engagement of the workman amply proves the continuous need of the workman and the bank have to give preference for appointment as a sub-staff. Therefore, due to the exigencies of service, the Branch Manager Arumpuliyur branch engaged the workman Sri K. Krishnan for 657 days. As per clause 20.12 the temporary workman will be given preference, while filling up permanent vacancy. Since it comes under class IV category, Employment Exchange compulsory notification Act will not be applicable to the workman. Since the workman was engaged by the Branch Manager as per clause 20.12 of the Bipartite Settlement in the permanent vacancy for more than 240 days in a year and had served in the bank for 657 days the workman Sri K. Krishnan is having preferential treatment over others and is having a vested right over the existing vacancies under the Respondent/Management. The Petitioner Union also submits that since the workman had completed 240 days of service, he should be given one month notice or notice pay as per section 25F of the Industrial Dispute Act, 1947 and since the above provision of the Act has not been complied with the non-engagement of the workman is illegal. There are so many settlements in the matter of engagement and regularisation of the services of such temporary workmen. There are several vacancies to absorb the workman into service, yet the management is refusing to re-engage him and to regularise the services of the workman Sri K. Krishnan. Hence, it is prayed that this Hon'ble Tribunal may be pleased to direct the Respondent to absorb the workman into service in the existing vacancy and to regularise the services of the workman.

3. The averments in the Counter Statement filed by the II Party/General Manager Indian Bank Central Office Chennai, (hereinafter refers to as Respondent) are briefly as follows :

The concerned workman Sri K. Krishnan was not selected following the rules and regulations/Government guideline for appointing

temporary sub-staff/permanent sub-staff. He was not sponsored through Employment Exchange. He was not appointed in the services of the bank by competent authority. He was engaged by the Branch Manager at Arumpuliur branch as a casual employee as and when required basis and he has never rendered 240 days of continuous service within a period of 12 calendar months. In view of this, the concerned workman is not entitled to any benefits. The averment that the Petitioner worked continuously for more than 657 days and completed 240 days between 1-1-1993 to 31-12-1993 is denied and the Petitioner is put to strict proof of the same. As per the Ministry of Finance, Government of India letter dated 30-09-78 recruitment of sub-staff in Public Sector Banks and financial institutions irrespective of the nature and duration of vacancy should be made only through the medium of Employment Exchange. In the Respondent/Bank there is a rule for empanelment of temporary sub-staff. As per the rules the bank used to call for eligible candidates from Employment Exchange and the sponsored candidates are interviewed by a committee at regional level. Final selection and approval is given by Zonal Manager only. The concerned workman Mr. K. Krishnan was not selected through the above said selection process of the bank and hence his engagement as temporary sub-staff by the Branch Manager is not proper. Government of India imposed a ban on empanelment of temporary employees in Public Sector Bank since August, 1990. The Petitioner has to prove regarding qualification and registration in Employment Exchange. His casual engagement by the Branch Manager is not in accordance with rules and hence, the question of regularisation or permanent absorption does not arise at all. The Respondent did not practice unfair labour practice. Since the concerned workman was not appointed as temporary employee by the competent authority, the provisions of awards and settlements referred to in the petition are not applicable in the present case. Sri K. Krishnan was not engaged for 240 days in any period of 12 months. The provision of Section 25F will be applicable, if a workman worked for 240 days in the preceding 12 months period from relevant date i.e. date of disengagement. Even, as per the statement provided by the Petitioner Union, he worked for 191 days only from August, 1993 to August, 1994, (13 months period). The Supreme Court of India very often observed that the engagement of persons on casual basis should not be used, as a conduit pipe for entry into public services and if encouraged it will pave way for nepotism and corruption in public services and if initial entry is in

blatant disregards of rules and regulations, the question of regularisation will never survive. Mr. K. Krishnan after 1994 has been working at Kalpakkam Atomic Power Plant Hospital as ward boy. The fact is admitted by the Petitioner Union in their letter dated 10-6-99. The above dispute was raised after unexplainable delay as such the claim of the Petitioner union is stale and is not maintainable. The provisions of the Industrial Dispute Act is not applicable to the facts of this case. Hence, it is prayed that this Hon'ble Court may be pleased to dismiss the above dispute with costs.

4. When the matter was taken up finally for enquiry, neither the Petitioner nor his counsel on record present. There is no representation on the side of the Petitioner/Workman. The learned counsel for the II Party/Management alone was present, with the representative of the Respondent/Bank. The aggrieved workman Sri K. Krishnan as well as Union was called absent. Documents filed by the II Party/Management have been marked as Ex. M1 to M4, which are all public documents. The arguments of the learned counsel for the II Party/Management was heard. The orders have been reserved to decide the industrial dispute on merits.

5. The Point for my consideration is :—

"Whether the management of Indian Bank is justified in terminating/discontinuing the services of Sri K. Krishnan and whether the demand of the Indian Bank Employees Association in the matter of regularisation of services of Sri K. Krishnan by the Indian Bank is justified? If not, to what relief he is entitled?"

Point :—

The Petitioner the General Secretary, Indian Bank Employees Association, has raised this industrial dispute espousing the cause of the workman Sri K. Krishnan a temporary sub-staff worked at Arunbuliur branch of the Respondent/Indian Bank. It is the contention of the Petitioner in the Claim Statement that the concerned workman was engaged as a temporary sub-staff by the Branch Manager from 27-2-90 onwards and the concerned workman had continuously worked for more than 657 days and, in particular he had completed more than 240 days between 01-01-93 and 31-12-93. It is the further contention of the Petitioner in the Claim Statement that though the employment of the workman is said to be a temporary one, he has been engaged by the bank against the permanent vacancies for more than four years from the year 1990 onwards.

and that the management had not taken any action to regularise the services of the concerned workman or to grant him temporary status and absorb him in permanent vacancy that may arise in future and that the very fact that the workman was in continuous employment for 657 days amply proves that there was perennial need for the service of the workman and that the workman Sri K. Krishnan is having preferential treatment over others and is having vested right over the existing vacancies under the Respondent/Management. But it is the contention of the Respondent/Management that the concerned workman Sri K. Krishnan was not selected following the rules and regulations/government guidelines for appointing temporary sub-staff permanent sub-staff and that he was not sponsored through Employment Exchange and he was not appointed in the services of the Bank by competent authority but he was engaged by the Branch Manager at Arumbuliur branch as casual employee as and when required basis and he never rendered 240 days of continuous service within a period of 12 months and that the concerned workman Sri K. Krishnan was not selected through the prescribed selection process of the bank and his engagement as a temporary sub-staff by the Branch Manager is not proper, since there is a ban on empanelment of temporary employees in Public Sector Banks imposed by the Government of India, since August, 1990. It is further contended that his casual engagement by the Branch Manager is not in accordance with rules and hence the question of regularisation or granting of temporary status or absorption in the permanent vacancy does not arise and that the provision of Section 25F which is applicable to a workman who worked for 240 days in the preceding 12 months period from the date of disengagement cannot be availed by the concerned workman. For this reply made by the Respondent/Management in their Counter Statement, no contra plea has been taken by the Petitioner by way of any reply statement.

6. Though it is alleged in the Claim Statement that the concerned workman was engaged as temporary sub-staff on 27-2-90 onwards when he was worked continuously for 657 days and had completed more than 240 days between 01-01-93 and 31-12-93, no oral or documentary evidence was let in, in this case, on the side of the Petitioner to prove the same. Further, nothing has been whispered in the claim petition as to on what date the concerned workman was denied employment by the Respondent/Management or disengaged from service. Nowhere in the claim Statement, the Petitioner Union has stated the

date on which the alleged termination or discontinuation of the services of Sri K. Krishnan by the Respondent/Indian Bank Management. Except the plea mentioned in this claim Statement, no substantial evidence has been produced before this Tribunal by the Petitioner Union in support of its plea that the concerned workman was engaged as a temporary sub-staff on 27-2-90 and had worked continuously for more than 657 days. The specific contention of the Respondent/Management in their Counter Statement that the concerned workman Sri K. Krishnan was not selected through the known and approved selection process of the bank for the recruitment of sub-staff in Public Sector Banks as per the rules of recruitment of sub-staff for the bank and his engagement as a temporary sub-staff by the Branch Manager is not proper have not been disputed or denied by the Petitioner Union. The averments in the Counter Statement that the Government of India imposed a ban on empanelment of temporary employees in public sector banks, since August, 1990 and that since the concerned workman was not appointed as temporary employee by the competent authority, the provisions of awards and settlements referred to in the claim petition, are not applicable to the present case, have also not been denied or disputed as incorrect by the Petitioner Union. The quoted provisions under Bipartite Settlement in the Claim Statement are with regard to temporary employees, who had been employed as a temporary workmen as per the recruitment rules. In the absence of any acceptable, legal evidence on the side of the Petitioner Union to show that the concerned workman has been employed by the Respondent/Bank as per the known or approved rules for recruitment of temporary sub-staff for the permanent vacancy by the competent authority, it cannot be said that the concerned workman has got vested right over the existing vacancies under the Respondent/Management for engaging him as a workman under the Respondent/Management. On the side of the Respondent/Management four documents have been marked as Ex. M1 to M4. Ex.M1 is a xerox copy of the circular No. 24/83 dated 4-3-82 issued by the Head Office of the Respondent/Bank, Personnel Department to all its branches in respect of the engagement of persons during leave vacancy of sub-staff. In that circular, instructions have been given for the strict compliance in engaging of persons during the leave vacancies as sub-staff. It is clearly mentioned in that circular that whenever a branch is in need of a person to engage in the leave vacancy of a sub-staff, in consultation with the Regional Manager and Zonal Manager and with their approval, it must write to the respective Employment Exchange spelling out the norm

and request them to sponsor candidates coming within the prescribed norms and on receipt of the list, the branch should scrutinise it and forward with number of candidates conforming to the norms to the respective Regional Manager/Zonal Manager and they will call the candidates for a personal interview and select the candidates and inform the branch and that the Regional/Zonal Managers have been strictly instructed not to engage any person, who has not been sponsored by Employment Exchange after 1-4-81 and services of any candidate engaged like that should have been dispensed with. Further, it is stated in that circular that the candidate under any circumstances should not be engaged for more than 12 days in a calendar month and engaging persons for more than a maximum number of days permitted per month, engaging candidates directly without obtaining permission from higher authorities, engagement of persons for day to day without obtaining confirmation of Regional/Zonal Managers are all irregularities regarding engagement of persons during the leave vacancy of sub-staff from time to time. Ex.M2 is the xerox copy of the Government of India, Ministry of Finance, Department of Economic Affairs, Banking Division, circular dated 16-8-90 to the Chief Executives of all Public Sector Banks on the subject of recruitment and absorption of temporary employees in public sector banks. The Government of India has given instruction under this Circular to all the Chief Executives of the public sector banks to that effect that the recruitment of all temporary employees in the clerical/subordinate cadre to be stopped forthwith. Ex. M4 is the xerox copy of the another circular dated 30-9-78 issued by the Banking Division of Department of Economic Affairs, Ministry of Finance, Government of India stating that all the management of Nationalised Banks to ensure that the recruitment of sub-staff post is made only through the medium of Employment Exchanges and other permissible sources can be tapped only if Employment Exchange concerned issued a non-availability certificate. The circular under Ex.M1 and the ban imposed by the Government of India under Ex.M2 and the instructions given by the Government of India under Ex.M4 have not been disputed on the side of the Petitioner Union. From the available plea on either side, it is seen that the engagement of the concerned workman by the Branch Manager of Arumbuliur branch is an improper one and it is not in accordance with the instructions given by the bank management to all the branches for engaging persons as sub-staff during the leave vacancies. So, under such circumstances, it is incorrect to contend by the Petitioner Union that the concerned workman has got a preferential treatment over others and he is having vested right over the existing vacancies under the Respondent/Management is incorrect. Further, the allegation

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in in the Claim Statement that the concerned workman's non-engagement in service by the Respondent/Management without the prescribed notice under section 25F of Industrial Disputes Act is illegal, is also incorrect. The Petitioner union has failed to prove that the concerned workman had completed 240 days of service to avail the benefits under section 25F of Industrial Disputes Act. Further, it is contended by the Respondent/Management in their Counter Statement that the concerned workman after 1992 has been working at Kalpakkam Atomic Power Plant Hospital as a Ward Boy and the said fact was admitted by the Petitioner Union in their letter dated 10-6-99 has not been denied. In support of that contention the Respondent/Management has filed the xerox copy of the Petitioner Association's letter dated 10-6-99 to the Assistant Labour Commissioner (Central-II) Chennai, wherein Petitioner Union has stated that the concerned workman was taken by Kalpakkam Atomic Power Plant Hospital as Ward Boy on a sympathetic consideration. So, from these materials available in this case, it is seen that the question whether the management of Indian Bank is justified in terminating/discontinuing the services of Sri K. Krishnan does not arise; since there is no plea in the Claim Statement of the Petitioner Union as a specific reference to the alleged termination/discontinuation of service of the concerned workman by the Respondent/Bank Management. So under such circumstances, the demand made by the Petitioner Union on behalf of the concerned workman for the Respondent/Management to absorb the workman into service or re-engage him and to regularise him in service in the existing vacancy cannot be considered as a justified one. Hence, the concerned workman is not entitled to any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the demand of the Petitioner Union made against the Respondent/Indian Bank Management on behalf of the concerned workman Sri K. Krishnan for absorption and regularisation of service is not justified and the concerned workman is not entitled to any relief.

No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th April, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

Exhibits marked :

For the I Party/Claimant : Nil

For the II Party /Management :

ANNEXURE

M1 04-03-83 Xerox copy of the circular issued by the Head Office of Indian Bank with regard to engagement of persons during the leave vacancies of sub-staff.

M2 16-08-90 Xerox copy of the letter issued by Finance Ministry To all Chief Executives of Public Sector Banks with Regard to recruitment and absorption of temporary Employees in Public Sector Banks.

M3 10-06-99 Xerox copy of the letter from Petitioner Union to Assistant Labour Commissioner (Central) Chennai.

M4 30-09-78 Xerox copy of the letter issued by Finance Ministry To all Banks with regard to recruitment of sub-staff.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II. MUMBAI.
PRESENT
S. N. SAUNDANKAR
PRESIDING OFFICER

REFERENCE No. CGIT-2/172 of 1999.

EMPLOYERS IN RELATION TO THE MA-
NAGEMENT OF CENTRAL BANK OF INDIA

Central Bank of India,
The Regional Manager,
CBI, Regional Office,
Chandker Mukhi,
Nariman Point,
Mumbai 400 021.

AND

THEIR WORKMEN

Central Bank Employees Association
The General Secretary,
CBEA, Central Bank Building 2,
East Wing, 4th Floor,
Hutatma Chowk, M.G. Road,
Mumbai-400 023.

APPEARANCES :

For the Employer : Mr. L.L.D'Souza
Representative.

For the Workmen : Mr. A.P. Kulkarni
Advocate.

Mumbai Dated, 31st January, 2002.

AWARD PART-I

The Government of India, Ministry of Labour, by its Order No. L-12012/100/99/IR(B-II), dtd. 23-8-99, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, have referred the following Dispute to this tribunal for adjudication.

“Whether the action of the Central Bank of India by inflicting the punishment for stopping of one increment for one year besides permanent withdrawal of the Special Assistant Allowance to Shri P.K. Kulkarni is justified? If not, then what relief the workman is entitled to?”

2. Workman Shri P. K. Kulkarni was working as Special Assistant in the Central Bank of India, Churchgate Branch in the year 1994. The Central Bank Employees Association vide Statement of Claim (Exhibit-4) contended that workman had an unblemished service record. He was issued chargesheet dtd. 17-8-94 alleging that on 10-2-94 he afforded a fictitious credit entry of Rs. 500 in his

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1700:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियो-जकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, मुम्बई के पंचाट (संदर्भ संख्या 2/172 ऑफ 1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-02 को प्राप्त हुआ था।

[सं. एल-12012/100/99-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 24th April, 2002

S.O.1700.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/172 of 1999) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 23-04-2002

[No. L-12012/100/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

Overdraft A/c. No. 300382 to facilitate payment of cheque No. 81304 for Rs. 244.75ps. which entry was subsequently reversed as contra entry on the same day and that on 11-2-94 he posted a fictitious credit entry of Rs. 6,000 in his Overdraft A/c. No. 300383 which amount was transferred on 11-2-94 to his O.D. A/c. No. 300382 to reduce the outstanding debit balance from 25,107.75 to Rs. 19,107.75 in order to enable him to withdraw cash of Rs. 1,000 by cheque No. 81307 on 11-2-94 and to enable passing of cheque No. 81306 for Rs. 264 and cheque Nos. 81302 & 81303 for Rs. 2,100 each, further alleging that the fictitious entry of Rs. 6,000 was reversed by him on 22-2-94 by manipulating the same on back dated transactions as of 11-2-94 and that he prepared the relative supporting vouchers of the said entries in his own handwriting. It is contended that Mr. R.N. Iyer conducted the inquiry of the charges as above and that he held charges not proved, vide his finding and report dtd. 21-4-95. It is pleaded that the inquiry officer pointed out that the entries were nothing but merely certain operational mistakes and that bank did not suffer any loss because of the overdraft accounts. He further found that the said entries were not made with animus. However inspite of this clear-cut findings of having workman not guilty the disciplinary authority vide their Memo dtd. 29-4-95 disagreeing with the findings held that, the charges as alleged are proved and consequently sought explanation, of workman and that by the letter dtd. 15-7-95 imposed punishment on the workman as reduction to a lower scale in the scale of pay by one year and withdrawal of his special allowance under the Bipartite settlement. It is contended appeal against the same was rejected on 15-1-96. It is contended the punishment imposed was against the four corners of law and therefore the action of the management is illegal. It is contended that the findings of the Disciplinary Authority are not based on the evidences before him and consequently union contended to set aside the order of punishment imposed by the management, and consequently relief of payment of natural increment, special allowance be awarded.

3. Management Central Bank of India opposed the claim of the union by filing Written Statement (Ex-5) contending that the findings recorded by the inquiry officer were not as per the record and the evidence, and therefore Disciplinary Authority did not concur with the findings and therefore directed the workman to make his submissions and that considering his submissions dtd. 26-5-05 and the inquiry proceedings, the Disciplinary Authority, by the order dtd. 15th July, 1995 imposed the punishment reproduced supra. It is contended that charges alleged and proved against the workman were serious enough to merit the punishment of dismissal from service, however, with a view to give opportunity to reform

and correct himself, a lenient view was taken on imposing punishment by way of reduction to lower scale as per the settlement and the law of the land. It is contended that the findings of the Disciplinary Authority are based on the evidence before it and that the action was totally justified.

4. On the basis of the pleadings my Learned Predecessor framed preliminary issue dtd. 30-3-2000 vide (Exhibit-8) and in that context, workman Kulkarni filed affidavit (Exhibit-13) on behalf of the union and closed evidence vide (Exhibit-25) Management bank however did not lead evidence in so far as the preliminary issue is concerned vide purshis (Exhibit-27).

5. Union filed written submissions alongwith xerox copies of the rulings (Exhibit-29/33) and the management bank (Exhibit-32). On perusing the record as a whole and the written submissions I record my findings on the following preliminary issues for the reasons mentioned below :—

Issues	Findings
Whether the findings of the disciplinary authority are based on evidence before it?	No.

REASONS

6. Admittedly domestic inquiry held against the workman Shri Kulkarni on the chargesheet dtd. 17-8-94, ended in holding charges not proved. The Learned Representative, Shri L. L. D'Souza for the management bank has rightly urged relying on settled case law that the findings of the inquiry officers are only his opinion on the material and such findings are not binding on the Disciplinary Authority as the decision making authority is the punishing authority and that authority can come to its own conclusion and that the Disciplinary Authority can disagree to the findings of the inquiry officer, who can impose a punishment suitably.

7. In the case in hand the Disciplinary Authority vide their letter dtd. 22-4-25 (Exhibit-15) disagreed with the findings recorded by the inquiry officer, Mr. Iyer and held the charges proved, for the reasons mentioned therein. According to the union, findings of the Disciplinary Authority are not based on the evidence before it. Report of the inquiry officer Mr. Iyer and the proceedings are filed with list (Exhibit-9). Mr. Iyer has recorded findings on charge No. 1 that the transaction is at the most an error than a deliberate act of affording a fictitious credit entry and that it was not proved. So far charge No. 2 he opined that it was in the nature of a mistake and not in the nature of misconduct. He nowhere found any motive for effecting the transactions. It is seen from the record that immediately on the

every day, the entry in so far as charge No. 1 was reversed and that so far as entry in respect of charge No. 2, was unintentional. This reasoning given by the inquiry officer was disagreed by the Disciplinary Authority pointing in their letter (Ex-15 dtd. 29-4-95) that the inquiry officer had not given any cognizance and that according to it, in so far as the entry, charge No. 1 on credit was not a genuine one and hence fictitious, and so far the charge No. 2 the punishing authority disagreed as the inquiry officer instead of considering the rule and documentary evidence, termed the action of workman as a mistake and not misconduct.

8. We have to decide the preliminary issue in the case in hand "Whether the findings of the punishing authority are based on the evidence before him?" The inquiry officer had discussed on materials and documents, and going through the letter of the Churchgate Branch dtd. 26-4-94 found that the transaction was in order and that the credit entry of Rs. 500 was reversed almost on the very same day itself and that it further referred the documents, in so far as charge No. 1. So far as charge No. 2 is concerned the inquiry officer discussed the materials coupled with the evidence of witnesses which revealed the workload of A.L.P.N. machines at Churchgate Branch was pretty heavy and that cash book was generally tallied after 8-10 days as a consequence so back dated correction of the credit entry in normal course after cash book tallying. This special circumstances brought on record was overlooked by the Disciplinary Authority.

9. It is established principle in Disciplinary jurisprudence that, when the Disciplinary Authority differs from the findings of the inquiry officer, it is imperative to discuss the entire case thread bare and establish that each finding of the inquiry officer was totally improbable and that, in the light of the materials, only conclusion that can be arrived at, by an ordinary prudent man, the conclusion arrived at, by the Disciplinary Authority as observed by Their Lordships in case High Court of Judicature at Bombay through its Registrar Vs. Shashikant S. Patil & Anr. 1999 II CLR 1158.

10. On perusing the record it is seen, Disciplinary Authority has not given detailed reasons as to why it has deferred from the findings and opinion of the inquiry officer. It has not mentioned as to why and to what extent the report of the inquiry officer is bad and has not considered glaring circumstance referred to above. No doubt as per the settled law as stated above, the Disciplinary Authority has right and/or authority, to defer from the findings of the inquiry officer, but, it has to justify as to why the opinion, and the findings of the inquiry officer should be disagreed. On going through the record

as a whole in the light of the ruling cited above, the findings and the decision of the Disciplinary Authority is not based on the evidence before him. Since the findings of the Disciplinary Authority are not based on the evidence before him relying on the decision of Neeta Kapilesh Vs. Presiding Officer, Labour Court & Ors. 1999 I CLR 219. I find proper to allow the management to lead evidence to prove its action and hence the following order is passed

ORDER

The findings of the Disciplinary Authority dtd. 29-4-95 are not based on the evidence before it.

Management, Bank is allowed to lead evidence to justify its action.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ.1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के सब्रह्म नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पचात (सदस्य संख्या 25 ऑफ 1994) को प्रकटित करती है, जो केन्द्रीय सरकार को 19-04-2002 को प्राप्त हुआ था।

[नं. एल-41012/122/93-आई.आर.डीयू/(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi the 22nd April, 2002

S. O. 1701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25 of 1994) of the Central Government Industrial Tribunal No. I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Eastern Railway, Dhanbad and their workmen, which was received by the Central Government on 19-4-2002.

[No. L-41012/122/93-I. R. (DU)/(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO I, DHANBAD

In the matter of a reference under Sec. 10 (1)(d) of the Industrial Disputes Act, 1947

Reference No. 25 of 1994

Parties ; Employers in relation to the management of Eastern Railway, Dhanbad

AND

Their Workman

Present : Shri S. H. Kazmi
Presiding Officer.

Appearances :

For the Employers : Shri G. Prasad, Advocate.

For the Workman : Shri Md. Kalim,
concerned workman.

State : Jharkhand. Industry : Railway.

Dated, the 10th April, 2002

AWARD

By Order No. L-41012/122/93-I.R. (DU) dated 21-2-1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Eastern Railway, Dhanbad in terminating the services and subsequently reducing in rank to the Post of Liverman Gr. ‘B’ as per Ministry of Labour, New Delhi letter No. L-41012/122/93-IR (DU) dt. 29/31-8-95.”

2. Precisely, the case of the concerned workman, Md. Kalim, is that he was appointed in the Eastern Railway on 6-11-1958 and later he was duly confirmed and promoted to Senior Train Clerk in the year 1981. It has been said that the concerned workman diligently performed his duty to the full satisfaction of his superior officers until 1985 when posted at Patratu Railway Station of Eastern Railway. He thereafter fell sick and ultimately for his frequent illness and failing health he took treatment in Railway Hospital and when it was noticed by him that even then his health was not improving he was obliged to take treatment from private physician with due information to the Railway Authorities. He also represented to the authorities to transfer him to some other place but no response was made. It is said that finally he joined his duty with medical certificate on 6-9-88 but no order was communicated to him on his joining report and thereafter on 12-9-88 he was served with a chargesheet for alleged absence from duty without authorisation and against the rules for 577 days intermittently during the period from 31-8-85 to 6-9-88. He was also placed under suspension pending domestic enquiry. Further the case is that despite request made by him the management

did not supply the documents to the concerned workman so as to enable him to give suitable explanation to the charges levelled against him. The domestic enquiry thereafter was conducted ex-parte which was not fair and proper and he was not afforded sufficient opportunity to defend himself. It has also been said that the enquiry report submitted by the Enquiry Officer is not based on facts but merely on the case mentioned in the chargesheet and so the said report is perverse. Further, it is said that the disciplinary authority did not consider the merit of the case and merely agreed with the Enquiry Officer so his order cannot be sustained. It has also been stated that an appeal was filed by the concerned workman with the hope that the Senior Divisional Operating Superintendent as appellate authority would see through the lacuna in domestic proceeding but he merely passed the order reducing him to a lower rank. Lastly it is said that the action of the management is vindictive and is an instance of unfair labour practice.

3. The management, on the other hand, has come out with the case as disclosed in its written statement that the concerned workman remained absent unauthorisedly from duty for 577 days off and on during the period 31-8-85 to 6-9-88, out of a total 1103 days without observing normal procedure prescribed by the Railway Servants (Discipline and Appeal) Rules, 1968. A memorandum of chargesheet dated 12-9-88 was thereafter issued to him by the Divisional Operating Supt. (T) who is the competent authority and was asked to explain in writing. Further it has been said that the concerned workman was given sufficient time and opportunities to submit his explanation in accordance with prescribed rules and to inspect necessary documents indicated in the memo of charges. But the concerned workman deliberately adopted evasive attitude and failed to turn up in attending domestic enquiry. The enquiry was adjourned from time to time but in spite of that the concerned workman did not participate in the enquiry. It is said that the enquiry was thereafter conducted ex-parte against the concerned workman whereafter the report was submitted and he was found guilty of the charges. The disciplinary authority considered the enquiry report and after fully concurring with the finding of the enquiry report, imposed the punishment of termination of service of the concerned workman. He was removed from service w.e.f. 1-6-1991 by an Order dated 30-5-91. A copy of the enquiry report and other documents were submitted to him and he was given an opportunity to file an appeal. The concerned workman thereafter preferred appeal and he also

preferred an application before the Central Administrative Tribunal, Patna. It is said that after hearing the parties the Central Administrative Tribunal directed to dispose of the appeal within three months. The Appellate Authority after hearing revoked the order of removal and demoted the concerned workman to the post of Liverman Grade 'B' in the scale of Rs. 800-1150 fixing his wages @ Rs. 800 per month basic. But the concerned workman did not resume his duty and he has been absenting throughout since then. It has also been said that the special enactment shall prevail over the Industrial Disputes Act, 1947, which is general enactment and the order passed by the C.A.T. cannot be reviewed by the Tribunal in a proceeding under Sec. 10 of the Industrial Disputes Act, 1947. Lastly as per the management, the claim of the concerned workman is absolutely unjustified.

4. Initially the reference was with respect to the termination of service of the concerned workman only but when the objection was raised by the management that a material fact has been suppressed by the concerned workman or the union while raising the dispute before A.L.C. (C) and the issue of termination or removal is no more available for being adjudicated upon in view of Appellate order replacing the same with demotion of the concerned workman to a rank below, the concerned workman approached the concerned Ministry for modification or amendment and thereafter a corrigendum was issued as regards adding or inserting the issue of demotion as well in the terms of reference.

5. Before proceeding to make discussions upon the merit of the respective claims, it is significant to point out at the outset that during the pendency of the instant reference upon the question of fairness of domestic enquiry both the sides led their oral as well as documentary evidence and after having heard both the sides finally by order dated 19-12-2000 the domestic enquiry was held to be fair and proper. As such, the chapter as regards fairness of domestic enquiry is not over.

6. Despite the sufficient opportunity being afforded to the concerned workman he did not choose to participate in the domestic enquiry for the purpose of defending himself. The enquiry thereafter proceeded ex-parte against him and thus ultimately upon its completion the report was submitted on the basis of which order was passed finally by the Disciplinary Authority with respect to termination or dismissal of his service.

As seen above, the charge against the concerned workman is that he was unauthorisedly absent

for a period of 577 days between 31-8-85 to 6-9-88 and during this long period of absence the post facto private medical certificate for only 149 days was submitted before the competent authority. However for the said period of unauthorised absence no explanation whatsoever was submitted to the competent authority. The Enquiry Officer found him guilty and on the basis of his report the Disciplinary Authority, namely, Divisional Operating Superintendent, Barkakana ordered the removal of the concerned workman from his service w.e.f. 1-6-91 by observing that the concerned workman right since his days of absence displayed a basic trait of personality which snags of irresponsible, callous and careless attitude towards his job

Now apart from reagitating the ground as regards the domestic enquiry being not fair, it has been urged on behalf of the concerned workman that the enquiry report which is the foundation of the ultimate action taken is absolutely perverse, non-speaking one and based on no material whatsoever. But having gone through the enquiry report (Ext. M-3) as well as few connected documents relating to the enquiry proceedings I do not find much substance in the aforesaid submission being advanced. Not only the details are mentioned in the report as to how steps were being taken to secure the presence of the concerned workman during the enquiry, rather the statements of fact and allegation are also there. Further it is apparent that mainly the reliance has been placed upon the report dated 7-9-88 submitted to the Divisional Operating Superintendent, Eastern Railway, Barkakana by Chief Yard Master, Eastern Railway, Patratu, (marked 'X/1' for identification) wherein the details are given regarding the total period of absence of the concerned workman i.e. for 577 days in total. As such, it cannot be said that the enquiry report is either based on no material or merely on chargesheet. Now, it is too, much for the concerned workman who at the first instance did not consider it necessary to appear and put forward his defence during the enquiry, to challenge the enquiry report at this stage by labelling the same as perverse, illegal or whatever specially when there does not appear to be any infirmity whatsoever even on the face of it.

7. Besides the above, as it has already been noticed earlier, when the order of dismissal or termination was passed on the basis of enquiry report the concerned workman went up in appeal before the Appellate Authority and while the said appeal was pending he filed a case before C.A.T., Patna, challenging the termination of his service. The

C.A.T. however declined to interfere with the impugned order and disposed of the said appeal/case by order dated 22-1-82 with a direction to the Appellate Authority to dispose of the appeal in accordance with the rules within three months from the date of receipt of the copy of the order. The Appellate Authority disposed of the appeal finding the concerned workman responsible for the charges framed against him for unauthorised absence from duty. He however took a lenient view by observing that the concerned workman had served in the Railways for more than 30 years and will be retiring from the service in the year 1997 and ordered for his reinstatement to the post of Liverman Grade 'B' in the initial scale of Rs. 800—1150/- with starting salary of Rs. 800/- per month on reduction of punishment of removal from service. Significantly despite such leniency being shown and sympathetic consideration being made even after having been found guilty of serious misconduct, the concerned workman did not report or resume his duty and remained absent as earlier till attaining the age of superannuation sometime in the year 1997. Such conduct on the part of the concerned workman is further indicative of his casual and irresponsible approach towards his job or official duty and certainly it further goes to support the stand taken against him by the management as regards his habitual absenteeism and callous and careless attitude.

8. Further, it is pertinent to be noticed that the fact as regards moving the Central Administrative Tribunal for challenging the order of termination has been conveniently suppressed by the concerned workman as nowhere in his written statement the said fact has been disclosed. It is thus needless to observe that he has not come forward with clean hands. Quite obviously when the order of dismissal or termination was passed the concerned workman availed both the remedies one after another. He filed a case before the Industrial Tribunal and soon thereafter raised the dispute before the A.L.C.(C) also which was ultimately referred to the Tribunal for final adjudication. When he had already availed remedies under special enactment by moving the C.A.T. there was no rational or reasonable basis to raise the dispute regarding termination under Industrial Disputes Act before A.L.C. (C) particularly when pursuant to the order of the Appellate Authority the order of termination was no more in existence. Anyway, even if it is taken for the time being that the forum under Industrial Disputes Act was still available to the concerned workman, then also in view of my findings arrived at above, I am constrained to hold that the order of the Appellate Authority or for that matter any action taken against the concerned workman by the management do not warrant any interference and I am of the firm view

that the concerned workman is not entitled to any relief whatsoever.

9. In view of all that has been observed above, it is finally concluded that the action of the management either in terminating the service of the concerned workman or subsequently reducing him in rank do not require interference and the concerned workman, as such, is not entitled to any relief whatsoever.

10. The award is thus rendered as hereunder :

The action of the management either in terminating the service of the concerned workman or subsequently reducing him in rank does not require interference and the concerned workman, as such, is not entitled to any relief whatsoever.

However, there would be no order as to cost.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.आ. 1702:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोंकण रेलवे कारपोरेशन लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, मुम्बई के पंचाट (संदर्भ संख्या सी जीआईटी 2/54/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-02 को प्राप्त हुए था ।

[सं. एल-41012/124/98-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/54/99) of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Konkan Railway Corpn. Ltd. and their workman, which was received by the Central Government on 19-4-2002.

[No. L-41012/124/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer.

Reference No. CGIT-2/54 of 1999

Employers in relation to the management of
Konkan Railway Corpn. Ltd.

Konkan Railway Corpn., Ltd.,
The Chief Operating Manager,
K.R.C.L., Belapur Bhavan,
Sector-II, CBD Belapur,
Navi Mumbai-400614.

The Chief Engineer (South),
Konkan Railway Corpn. Ltd.,
Railway Complex,
M.I.D.C., Mirjole,
Ratnagiri-415639

AND

Their Workmen,
Shri Nandkishore B. Sawant,
C/o Konkan Railway Corpn. Ltd.,
M.I.D.C., Mirjole,
Ratnagiri-415639

APPEARANCES :

For the Employer : Mr. Vijay Kantharia, Advocate.

For the Workmen : Mr. B. J. Sawant, Advocate.

Mumbai, dated 28th January, 2002

AWARD—PART-I

The Government of India, Ministry of Labour, by its Order No. L-41012/124/98/IR(B-1), dated 23rd February, 1999, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Chief Operating Manager, Konkan Railway Corporation Ltd., Ratnagiri in dismissing Shri Nandkishore B. Sawant, Enquiry-cum-Reservation Clerk at Ratnagiri Station, from the service w.e.f. 12-6-97 is legal and justified? If not, to what relief the workman is entitled to?”

2. Workman Shri Sawant, joined the Corporation in 1991 as Typist-cum-Clerk at Ratnagiri. Thereafter he was brought on regular scale and was promoted as Office Assistant in 1993. Vide Statement of Claim (Exhibit-9) workman averred that till the date of dismissal i.e. 12-6-97 he was working as Enquiry-cum-Reservation Clerk. He was awarded medal by the Corporation and that his entire service was unblemished. It is the contention of workman that he was active member of Bhartiya Kamgar Sena registered under the relevant Act. There were two unions in the Corporation and later on some disturbances arose during the election propaganda. It is his contention that to victimise him the Corporation made false complaint to police station against him and that he was suspended without any reason on 30-5-97, alleging that he committed misconduct on 29-5-97. It is his contention that during the period of suspension he was not given subsistence allowance as per the standing order and that without giving him notice and holding departmental inquiry, his services were terminated by the Corporation on 12-6-97. It is contended that workman had assailed his order of termination dated 12th June, 1997 before the higher authority on 27-6-97,

However that was rejected on 27-8-97. He had raised dispute before the A.L.C. (C). Vasco Goa who in turn, tried conciliation but, in vain. It is the contention of workman that his termination from service being against the Principles of Natural Justice and the provisions of Industrial Disputes Act, the Corporation be directed to reinstate him with full back wages.

3. Management, Corporation opposed the claim of workman by filing Written Statement (Exhibit-10) contending that workman was working as Enquiry-cum-Reservation Clerk from November 1996 at Ratnagiri, whose services governed under Konkan Railway Corporation Ltd. (Discipline and Appeal Rules) 1992. It is contended that under the said rules the Corporation can impose any of the penalties specified in Rule 8, in the circumstances where the disciplinary authority is satisfied for reasons to be recorded by it in, writing that it is not reasonably practicable to hold an inquiry, in the manner provided in these rules under 15(ii). It is contended that K.R.C.L. Employees Union had filed a Writ Petitioner No. 4983 of 1996 before the Bombay High Court, and that the High Court had given directions to hold elections and accordingly the election was scheduled on 29-5-97. It is contended that day, at about 11.30 hours the workman alongwith 15 to 20 other persons entered the chamber of the Regional Railway Manager (Ratnagiri) Shri S. Balakrishna without permission or authority. They spoke to said Balakrishna in unparliamentary language and he was physically assaulted demanding that eleven voters whose names were on the voters list of Ratnagiri should be permitted to cast vote at Ratnagiri. It is contended that Mr. Balakrishna who was on deputation from Indian Railways holding the position of Senior Administrative level was discussing alongwith other Deputationist Officer viz. Shri Kaushik. It is contended that workman alongwith other pushed Shri Kaushik out of the Chamber of Shri Balakrishna and Balakrishna was later-on dragged out of the chamber and was forcibly taken to polling booth and when the other officers intervening them, were also threatened and intimidated of which Mr. Balakrishna filed complaint to police on 29-5-97. It is contended because of this misconduct workman was suspended on 30-5-97 and that Shri Joshi, Inspector, Railway Protection Force was asked to conduct a fact finding inquiry on the incident, who in turn, after conducting detailed inquiry, submitted a report dated 7th June, 1997. It is contended that Mr. Joshi pointed out that an open inquiry in the case was not feasible as the eye witnesses were being terrorised. It is contended a Disciplinary Authority under the circumstance in view of the disturbed conditions in exercise of powers conferred upon under Rule 15(ii) of the said rules imposed penalty of dismissal on the workman on 12-6-97 and that the appeal filed against the dismissal order was rejected on 27-8-97. It is contended that the workman was dismissed without holding inquiry as it was not reasonably practicable to hold inquiry and therefore the action of dismissal passed is justified. The management therefore prayed to dismiss the claim of workman.

4. By way of Rejoinder (Exhibit-11) workman reiterated the recitals in the Statement of Claim and denied the contentions in the Written Statement. He contended that no inquiry was held by Joshi and that the circumstances were not warranting recourse to Rule 15(ii) of the Corporation (D & A Rules).

5. Record shows that my Learned Predecessor on the basis of the application (Exhibit-15) framed preliminary issue on 10-2-2000 at Exhibit-13 and in that context burden to prove the issue being on management Chief Operating Manager, Mr. Pandey filed affidavit on behalf of Corporation by way of Examination-in-Chief (Exhibit-22), and relied on the affidavit of Mr. Sanjay Joshi, Inspector, Railway Protection Force (Exhibit-17) and closed evidence vide purshis (Exhibit-23). Workman Shri Sawant filed his affidavit (Exhibit-24) and one Mr. Rane, Secretary Bharatiya Kamgar Sena (Exhibit-25) and closed evidence vide purshis (Exhibit-26).

6. Workman filed Written Submissions (Exhibit-27/30) alongwith copies of rulings and the management at (Exhibit-28) alongwith the copies of rulings with list (Exhibit-29/31).

7. On perusing the record as a whole and hearing the counsel at length and the written submissions, I record my findings on the following preliminary issue for the reasons mentioned below :—

Issue	Finding
Whether the management was justified to take recourse to Rule-15(ii) of the Konkan Railway Corpn. Ltd. Disciplinary and Appeal Rules?	Not justified.

REASONS

8. Admittedly Shri Sawant was working as "Enquiry-cum-Reservation Clerk" at Ratnagiri during the material period and as per the directions of the Bombay High Court in Writ Petition No. 4983 of 1996, unions elections were scheduled on 29-5-97. It is also admitted position that Corporation framed rules viz. Konkan Railway Corporation Limited (Discipline and Appeal) Rules, 1992 applicable to the workman. Rule 5 of the said D & A Rules defines "misconduct". Rule 6 empowers the Corporation to suspend a delinquent, pending Disciplinary proceedings. Rule 8 lays down the penalty that may be imposed on any delinquent. Rule 15 is relevant to determine the instant preliminary issue which reads as under :—

"Rule 15 :

SPECIAL PROCEDURE IN CERTAIN CASES :

"Notwithstanding anything contained in Rule No. 10 or 11 or 12, the Disciplinary Authority may impose any of the penalties specified in Rule No. 8 in any of the following circumstances :

- The employee has been convicted on a criminal charge, or on the strength of facts or conclusively arrived at by a judicial trial or
- Where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these rules or

- Where the Board is satisfied that in the interest of security of the Corporation or Government it is not expedient to hold any enquiry in the manner provided in these rules.

Provided that the employees may be given an opportunity of making representation in the final order proposed to be imposed before any order is made in a case falling under Clause (i)."

9. According to the Corporation-management, on 29-5-97 at 11.30 hours workman alongwith 15-20 other persons entered the Chamber of Regional Railway Manager, Shri Balakrishna at Ratnagiri without permission. They spoke to said Balakrishna in vernacular language and he was physically assaulted. It is contended that eleven voters whose names were in the voters list of Ratnagiri should be permitted to cast vote at Ratnagiri, and further contended that Deputy Finance Officer and Chief Accounts Officer Shri Kaushik was then discussing with Shri Balakrishna and that workman and his followers pushed Shri Kaushik out of the chamber and later on dragged Shri Balakrishna out of the chamber and was forcibly taken to polling booth and while Balakrishna was being assaulted by the said group of persons led by the workman, other persons and staff wanted to intervene to protect Shri Balakrishna, but they were threatened and intimidated by workman and his followers of which Mr. Balakrishna filed a detailed complaint to police on 29-5-97. It is contended that Shri Balakrishna was on deputation from Indian Railways and was holding the position of Senior Administrative level in Indian Railway Service of Engineers and Mr. Kaushik was also deputationist Officer holding position of Deputy Finance Officer. Because of intimidatory and Criminal Action against the deputationist, with crippling effect on the operations of the Corporation. It is contended that since the occurrence as above witnesses were terrorised, most of these officers and staff were not willing to come forward as witnesses in the open inquiry on account of fear and reprisal. It is contended the open inquiry in the case was not feasible as the witnesses felt terrorised. It is contended Inspector, Railway Protection Force Shri Joshi, was asked to conduct an impartial fact finding inquiry to investigate the complaint made by Balakrishna and that the inquiry revealed that due to intimidation by workman and his colleagues the open inquiry in the case was not feasible as the eye witnesses felt terrorised. It is contended on the basis of the report of the fact finding inquiry since it was not reasonably practicable to hold an inquiry in the manner provided in the rules, the workman was dismissed without holding inquiry, taking recourse to Rule 15(ii) of the Discipline and Appeal Rules. Workman denied the incident as alleged. According to him, on the material date he met Mr. Balakrishna in his office at Ratnagiri, alongwith Shri Pavaskar and Rane and other employees, when officers Mr. Kaushik, Sawant and Jain were in the office and that they discussed the issue on voting arrangement and that on the next date on 30-5-97, he was suspended and on or about 16-6-97 he received termination order dated 12-6-97.

10. As mentioned above, it is seen under the D & A Rules in all the penalty specified in Rule-8 including major punishment in the nature of dismissal, can be imposed by the Disciplinary Authority on its employee without holding inquiry where the authority is satisfied for the reasons recorded by it in writing that, it is not reasonably practicable to hold an inquiry in the manner provided in these rules. Holding of departmental inquiry particularly where it is so provided in the service regulations or standing orders, is a rule and dispensing with the same, is an exception. In the case in hand, the employer chosen to terminate the services of his employee for misconduct without holding inquiry. Therefore it is necessary to see what were the exceptional circumstances for not holding inquiry. Before switch on the evidence to that effect, let us see the meaning of 'practicable reasonable' used in the D & A Rules-15(ii). It is observed by Their Lordships in *Union of India Vs. Tulsiram Patel* (1985) AIR SC. Page No. 1416, PARA 130.

"What is pertinent to note is that the words used are "not reasonably practicable" and not "impracticable". According to the Oxford English Dictionary "practicable" means "Capable of being put into practice, carried out in action, effected, accomplished, or done feasible". Webster's Third New International Dictionary defines the word "practicable" inter alia as meaning "possible to practice or perform : capable of being put into practice, done or accomplished : feasible". Further the words used are not "not practicable" but "not reasonably practicable". Webster's Third New International Dictionary defines the word "reasonably" as "in a reasonable manner : to a fairly sufficient extent". Thus, whether it was practicable to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so. It is not a total or absolute impracticability which is required by clause (b). What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation. It is not possible to annumerate the cases in which it would not be reasonably practicable to hold the inquiry, but some instances by way of illustration may, however, be given. It would not be reasonably practicable to hold an inquiry where the government servant, particularly through or together with his associates, so terrorizes, threatens or intimidates witnesses who are going to give evidence against him with fear of reprisal as to prevent them from doing so or where the government servant by himself or together with or through others threatens, intimidates and terrorizes the officer who is the disciplinary authority or members of his family so that as is afraid to hold the inquiry or direct it to be held. It would also not be reasonably practicable to hold the inquiry where an atmosphere of violence or of general indiscipline and insubordination prevails, and it is immaterial whether the concerned government servant

is or is not a party to bringing about such an atmosphere. In this connection, we must bear in mind that numbers coerce and terrify while an individual may not. The reasonable practicability of holding an inquiry is a matter of assessment to be made by the disciplinary authority. Such authority is generally on the spot and knows what is happening. It is because the disciplinary authority is the best Judge of this that clause (3) of Article 311 makes the decision of the disciplinary authority on this question final. A disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail. The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such a case the court will strike down the order dispensing with the inquiry as also the order imposing penalty. The case of *Ajijun Chauhey V. Union of India* (1984) 3 SCR 302 : (AIR 1984 SC 1356) is an instance in point. In that case, the appellant was working as a Senior Clerk in the office of the Chief Commercial Superintendent, Northern Railway, Varanasi. The Senior Commercial Officer wrote a letter to the appellant calling upon him to submit his explanation with regard to twelve charges of gross indiscipline mostly relating to the Deputy Chief Commercial Superintendent. The appellant submitted his explanation and on the very next day the Deputy Chief Commercial Superintendent served a second notice on the appellant saying that his explanation was not convincing and that another chance was being given to him to offer his explanation with respect to those charges. The appellant submitted his further explanation but on the very next day the Deputy Chief Commercial Superintendent passed an order dismissing him on the ground that he was not fit to be retained in service. This court struck down the order holding that seven out of twelve charges related to the conduct of the appellant with the Deputy Chief Commercial Superintendent who was the disciplinary authority and that if an inquiry were to be held, the principal witness for the Department would have been the Deputy Chief Commercial Superintendent himself, resulting in the same person being the main accuser, the chief witness and also the judge of the matter."

11. In the same Judgement Their Lordships in para 129 observed :—

"It should also be borne in mind that in the case of a serious situation which renders the holding of an inquiry not reasonably practicable, it would be difficult to for see how long the situation will last and when normalcy would return or be restored. It is

impossible to draw the line as to the period of time for which the suspension should continue and on the expiry of that period action should be taken under clause (b) of the second proviso. Further, the exigencies of a situation may require that prompt action should be taken and suspending the Government servant cannot serve the purpose. Sometimes not taking prompt action may result in the trouble spreading and the situation worsening and at times becoming uncontrollable. Not taking prompt action may also be construed by the trouble makers and agitators as a sign of weakness on the part of the authorities and thus encourage them to step up the tempo of their activities or agitation. It is true that when prompt action is taken in order to prevent this happening, there is an element of deterrence in it but that is an unavoidable and necessary concomitant of such an action resulting from a situation which is not of the creation of the authorities. After all, clause (b) is not meant to be applied in ordinary, normal situations but in such situations where it is not reasonably practicable to hold an inquiry."

Further in para 136 it is pointed out that :

"It was next submitted that though clause (b) of the second proviso excludes an inquiry into the charges made against a government servant, it does not exclude an inquiry preceding it, namely, an inquiry into whether the disciplinary inquiry should be dispensed with or not, and that in such a preliminary inquiry the government servant should be given an opportunity of a hearing by issuing him a notice to show cause why the inquiry should not be dispensed with so as to enable him to satisfy the disciplinary authority that it would be reasonably practicable to hold the inquiry. This argument is illogical and is a contradiction in terms. If an inquiry into the charges against a government servant is not reasonably practicable, it stands to reason that an inquiry into the question whether the disciplinary inquiry should be dispensed with or not is equally not reasonably practicable."

12. Management's witness Mr. Pandey, The Chief Operating Manager, Konkan Railway, the disciplinary authority for the workman stated that he took recourse to Rule-15(ii) of D&A Rules in the matter of termination of workman on the basis of two documents i.e. complaint of Mr. Balakrishna and the report of the Inspector as referred in para 2 of his affidavit. Complaint is at Exhibit-12/6 and the Inspectors report is at Exhibit-12/7. So far complainant Mr. Balakrishna, was not examined by the management. Inspector Joshi stated that Deputy Chief Security Commissioner, Mr. Srivastava, Konkan Railway directed him to conduct the inquiry into the alleged incident dated 29-5-97 and accordingly he inquired with several eye witnesses, but due to terrorism none dared to come forward to speak on the incident. From his cross-examination, para 3 it is seen that for the first

time he conducted such type of inquiry. His office situates at Belapur. He said to have conducted inquiry at Ratnagiri. Mr. Pandey admits that his office and that of Srivastava situates in one building at Belapur. Report (Exhibit-12/7) is said to be dated 7-6-97. He is said to have held inquiry on 30th. Nothing to show as to why the report of the inquiry dated 30th was placed late before the Deputy Chief Security Commissioner on 9-6-97. So far the complaint (Exhibit-12/6) is concerned, it is dated 29-5-97 and that according to Mr. Pandey it was made to police, Ratnagiri on that day only. However, it is seen from the Judgment of C.J.M., Ratnagiri dated 17-7-2000 in Regular Criminal Case 136 of 1997, para 14 that complaint marked at Exhibit-40 was lodged at 8.50 p.m. on 30-5-97 i.e. not immediately after the alleged occurrence. The base of the termination order as stated above, is of these two documents according to Disciplinary Authority, Mr. Pandey, however these documents itself leaves room for doubt.

13. True it is workman Mr. Sawant admitted that on the material day and time he alongwith 10 to 12 persons had been to the office of Mr. Balakrishna however he denied to have abused and assaulted said Balakrishna. The Learned Counsel Mr. Kantharia submits that the admission of the workman that he had been to the office of Balakrishna and that Balakrishna the higher rank officer, would not disclose false on manhandling him and this according to him, goes to show the happening of the incident. At this stage of deciding preliminary issue, suffice to see whether the circumstances warranted not to hold inquiry. According to Mr. Sawant as seen from his affidavit (Exhibit-24), last para, results of the elections were declared on 30-5-97 and that his union, Bharatiya Kamgar Sena had lost the elections which has gone unchallenged. It is not that union of Sawant was elected thereby there was apprehension to create a situation disturbing the peace, indirectly justifying non-holding of enquiry.

14. According to management incident as alleged occurred on 29-5-97, workman was suspended on 30-5-97, however, he was dismissed by the order dtd. 12-6-97. It is not that workman was not suspended and therefore there was urgency to hold inquiry. From this point of view it seems, there was no urgency to take action without inquiry. Their Lordships in Jaswant Singh Vs, State of Punjab and Ors., 1991 I CLR pg. 1 pointed out :

"The decision to dispense with the departmental enquiry cannot be rested solely on the ipse dixit of the concerned authority. When the satisfaction of the concerned authority is questioned in a court of law it is incumbent on those who support the order to show that the satisfaction is based on certain objective facts and is not the outcome of the whim or caprice of the concerned officer."

As stated above, had workman's union elected, and he would not have been suspended, it could have been said that he would have disappeared the evidence and public interest warranted quick action justifying dispensation. From the observation of the decision referred to above, dispensation of inquiry was justified when situation required prompt action and suspending the employee cannot serve the purpose or not taking

prompt action may result in trouble spreading of the situation worsening and at times becoming uncontrollable. Nothing of this sort on record to show that the situation was worsening and that the workman was not suspended. Therefore looking to the facts of the matter in the light of the decisions supra, in my opinion, the management was not at all justified to take recourse to Rule-15(ii) of the Konkan Railway Corporation Limited (Discipline and Appeal) Rules. Consequently issue is answered accordingly.

15. My Learned Predecessor has framed issue as to "Whether the action of the management in dismissing the workman is legal and justified?". It is clear that the management was not justified to take recourse to Rule 15(ii). As observed in Neeta Kapilesh Vs. Presiding Officer, Labour Court and Ors. 1999 I CLR, page, 219, "where inquiry has not been held or the inquiry has been found to be defective the Tribunal can call upon the management or the employer to justify the action taken against the workman and to show by fresh evidence that the termination or dismissal order was proper. The Learned Counsel Mr. Kantharia for the management has rightly in that context urged, inviting attention of this Tribunal to the pleadings that under the circumstance, opportunity is necessary to be given to the management to lead evidence to justify its action. In this view of the matter the following order is passed :

ORDER

Management was not justified to take recourse to Rule-15(ii) of the Konkan Railway Corporation (Discipline and Appeal Rules).

Management is allowed to lead evidence to justify its action.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 22 अप्रैल, 2002

का.अ. 1703:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत ओवरसीज बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर-कोर्ट, चंडीगढ़ के पंचाट (संदर्भ संख्या आई.डी. 475 ए/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-04-2002 को प्राप्त हुआ था ।

[सं. एल-12011/26/96-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd April, 2002

S.O. 1703.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 475A/2001) of the Central Government Industrial Tribunal/Labour Court Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat

Overseas Bank Ltd. and their workman, which was received by the Central Government on 19-4-2002.

[No. L-12011/26/96-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Monday, the 15th April, 2002

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 475A/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri Jeyakaran Daniel and the Management of Bharat Overseas Bank Ltd., Chennai.)

BETWEEN

All India Bharat Overseas

Employees Union, Chennai. : I Party/Claimant.

AND

The Chairman and CEO,

Bharat Overseas Bank Ltd, Chennai. : II Party/Management.

APPEARANCE :

For the Claimant : Sri M/s. Balan Haridas & R. Kamatchi Sundaresan, Advocates.

For the Management : M/s. T. S. Gopalan & Co. Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-12011/26/96/IR(B-I) dated 30-8-96.

This reference has been made for 13 items of adjudication and the present dispute is the 5th item mentioned in the aforesaid reference. This reference in total was earlier referred to the Tamil Nadu State Industrial Tribunal where it was taken on file as I.D. No. 16/98. When the matter was pending before that Tribunal for enquiry, the Government of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, the case has been taken on file as I.D. No. 475/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 1-5-2001. On receipt of notice from this Tribunal.

counsel on either side present with their respective parties. When the matter came up for enquiry with the consent of both the parties, on their filing a joint memo, this particular industrial dispute in respect of the concerned workman mentioned as 5th item in the reference has been taken up separately as a split up case from I.D. No. 475/2001 and had taken on file as I.D. No. 475A/2001 and the counsel on either side prosecuted this case further.

In view of the stand taken by the I Party|Union that the domestic enquiry conducted by II Party|Management prior to passing of an order by the Disciplinary Authority in terminating the services of Sri Jayakaran Daniel was not a valid one and hence the Hon'ble Tribunal was requested to decide about the validity of the domestic enquiry conduct by the Respondent|Management as a preliminary issue. Accordingly, the said aspect has been decided as a preliminary issue and an order has been passed on 5-9-2001 holding that the domestic enquiry conducted against the delinquent employee Sri Jayakaran Daniel was fair, proper and as per the principles of natural justice.

When the matter was taken up for further adjudication to decide the main issue of the referred industrial dispute i.e. about the legality and justification of the action of the Respondent|Management, Bharat Overseas Bank Ltd. in terminating the services of the concerned workman Sri Jayakaran Daniel, a petition has been filed as I.A. No. 120/2001 by the I Party|Union stating that the punishment imposed by the Respondent|Management is an act of victimisation for legitimate trade union activities of the concerned workman and as a case of unfair labour practice. So, this Tribunal may permit the Petitioner to let in further oral and documentary evidence to demonstrate that act of punishing the concerned workman in a case of victimisation and the punishment imposed is excessive. After hearing the counsels on either side in respect of this petition, and on the basis of endorsement made by the learned counsel for the Petitioner on that petition I.A. No. 120/2001 that petition was allowed permitting the Petitioner Union to let in oral and documentary evidence in respect of the plea of victimisation, excessive punishment and unfair labour practice of the Respondent|Management. Accordingly, in addition to the documents marked on either side by consent, two witnesses on the side of the I Party|Union have been examined as WW1 and WW2 and further documents have been marked as Ex. W47 to W94. On the side of the Management further documents were marked as Ex. M22 to M28. The learned counsel for the Respondent|Management represented that there is no oral evidence on the side of the II Party|Management. The arguments advanced by the learned counsel on either side were heard in full.

Upon perusing the Claim Statement, Counter Statement, other material papers on record, oral and documentary evidence let in on either side and after hearing the arguments advanced by the learned counsel

on either side, this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Bharat Overseas Bank Ltd. in terminating the services of Shri Jayakaran Daniel is legal and justified ? If not, to what relief the concerned workman is entitled ?”

2. The averments in the Claim Statement of the I Party|Claimant Union in respect of this 5th item of reference as mentioned above are briefly as follows :—

The I Party|Claimant All India Bharat Overseas Bank Employees Union represented by General Secretary is espousing the cause of the employee Sri Jayakaran Daniel so far as this dispute is concerned. The I Party|Claimant Union (hereinafter refers to as Petitioner) states that the concerned workman had joined the services on 4-6-79 of the II Party|Management Bharat Overseas Bank Ltd., Chennai (hereinafter refers to as Respondent). Sri Jayakaran Daniel an active functionary of the Union became the Assistant General Secretary in the year 1981 and held that post till 1987. He was elected as General Secretary of the Petitioner Union during 1988. He is a member of National Executive Committee of National Confederation of Bank Employees from the year 1987 and he became Vice President of NCBE during the year 1991. He is also a member in the Negotiating Committee of NCBE. Thus, the said Jayakaran Daniel enjoys overwhelming confidence and support from the employees working in the Respondent|Bank. He had been representing the cause of the employees to the management. There were certain complaints to the Reserve Bank of India regarding functioning of bank and a team from Reserve Bank of India investigated into the complaints. It appears that the team found that the allegations made in the complaints were well founded and the team indicated the Management for it. The Management suspected that only at the instance of the Petitioner Union such complaints were made to Reserve Bank of India and started issuing charge sheet, transfers etc to terrorise the active members and office bearers of the Union. The Management resorted to transfer of employees including women employees without any reason just to terrorise them. In such circumstances, it was though prudent on the part of the Petitioner Union to go on delegation to the Chief Manager (Personnel) and express the difficulties faced by the members of the Petitioner Union. The delegation consisting of office bearers of the Petitioner Union met the Chief Manager (Personnel) on 31-8-94 at about 4.30 pm and requested him to reconsider the transfer orders issued to members of the Union. The Chief Manager (Personnel) instead of considering the genuine request became very wild and started insulting the delegation. He was totally non-cooperative. The delegation felt that no useful purpose will be served by representing to the Chief Manager (Personnel) and they have to return empty hand. The delegation

maintained absolute piece and they did not indulge in slogan shouting or manhandling, while representing to the Chief Manager (Personnel). This is what merely happened on 31-8-94. While so, the Management with an ulterior motive belatedly issued a charge sheet dated 6-9-94 foisting false allegations against the General Secretary of the Petitioner Union Sri Jayakaran Daniel in order to victimize him for his legitimate trade union activities. Before serving the charge sheet dated 6-9-94, the bank on 4-9-94, filed a suit C.S. No. 1130/94 in the High Court of Madras for the relief of a declaration that the Union represented by General Secretary, its office bearers, its members, its agents, its servants or anyone acting on their behalf have no manner of right to assemble, gather, shout slogans, or hold any demonstrations in any form or discipline any posters, play cards, notices, handbills or tie any fastens etc. and prevent ingress and egress of the Chairman and other Executives, Officers and Customers to and from any of the bank's premises or branches and also for a permanent injunction. As per the averments in the suit, the cause of action arose on 31-8-94, when the members of the Petitioner Union alleged to have taken out a demonstration and gheraoed the Personnel Officer. The allegations made in the suit and the charge sheet dated 6-9-94 are one and the same. The plaint in the above suit is verified by Mr. K. S. Markandan who had issued the charge sheet dated 6-9-94 in his capacity as the Disciplinary Authority. This fact is shown that the Disciplinary Authority had already come to the conclusion that the delinquent employee was guilty of the charges levelled against him, even before issuance of charge sheet. It is alleged in that charge sheet that Jayakaran Daniel along with Ambrose Ravikumar, N. Sethuraman, Jeyakumar, R. Manohar and few others gate crashed into the Personnel Manager's cabin in an aggressive posture, threatened, abused and shouted slogans and that by forcibly opening the cabin room of the personnel manager which resulted in damage to the door closure and that Jayakaran Daniel along with others gheraoed the Personnel Manager and thereafter shouted slogans abusing the Management on the third floor of the Bank's premises, where Chairman's cabin and Secretariat is situated after absenting from duty. There is no iota of truth in the allegation made in the charge sheet. He did not disclose list of witnesses, list of documents, which management was proposing to rely upon to prove the charges. He did not disclose the basis on which the charges were framed. Without furnishing the above details, it was quite impossible to give explanation to the charge sheet. The concerned employee Sri Jayakaran Daniel on many occasions requested the Management to provide him the list of witnesses and documents to give his explanation. The Management promised that it would give the same and they were dragging the issue. While so, without affording an opportunity to give his explanation to the charge sheet, the charge sheeted employee Sri Jayakaran Daniel was shocked to receive the enquiry notice appointing Mr. R. D. Sharma, Regional Manager as the Enquiry Officer. Meanwhile, the Petitioner Union issued a strike notice dated 8-11-94 to the Respondent/Bank. In the said notice, one of the demands was to withdraw the charge sheet issued to Sri Jayakaran Daniel. Thereafter, the matter was seized by the Regional Labour Commissioner (Central) and conciliation officer. Only when the matter was pending before the conciliation officer, the Management appointed an Enquiry Officer.

Even though the notice of enquiry was issued, he did not conduct enquiry, since he was satisfied that there was serious efforts to resolve the dispute on the advice of Labour Commissioner, Central. Only on this background, the enquiry which was posted on 3-11-94, 14-3-95, 25-3-95, 30-5-95, 15-11-95 and 21-11-95 was adjourned by the Enquiry Officer. In the above dates, adjournments was not sought by Sri Jayakaran Daniel, while so, the Disciplinary Authority, the Assistant General Manager appointed one Mr. R. K. Gupta as Enquiry Officer in the place of Sri R. D. Sharma and appointed one Presenting Officer in the place of Sri V. Seshagiri Rao. Further, immediately after issuance of charge sheet, the Disciplinary Authority was changed from Dy. General Manager to Assistant General Manager. The Dy. General Manager who issued the charge sheet was promoted and he became the Appellate Authority. As soon as Mr. R. K. Gupta took over as Enquiry Officer, he was in a great hurry to conduct the enquiry. He fixed the enquiry on 12-12-95 at the conciliation meeting on 6-12-95, the Asstt. Labour Commissioner advised the Petitioner to seek a long adjournment. However, the Enquiry Officer rejected that request. On 12-12-95 Sri Jayakaran Daniel represented to the Enquiry Officer to keep the enquiry in abeyance, since the suit C.S. No. 1130/94 before the High Court of Madras was instituted by the Respondent/Bank rests on the same allegations as contained in the charge sheet dated 6-9-94. In the said representation, it was brought to the knowledge of the Enquiry Officer that the witnesses who have got to be examined in the suit as well as in the charge sheet dated 6-9-94 would be one and the same and that in the departmental enquiry is proceeded with the charge sheeted employee will not be able to effectively defend himself in the enquiry. Hence, it was requested to defer the domestic enquiry proceedings, till the time the suit is disposed of. The Enquiry Officer rejected the said request of Sri Jayakaran Daniel and asked to attend the enquiry on 18-12-95. In the said letter of Enquiry Officer it is stated that any further representation could be made only during the enquiry on 19-12-95. On that day, Mr. Jayakaran Daniel was present and represented the Enquiry Officer to defer the enquiry, till the disposal of the Civil Suit filed by the Management. This was turned down by the Enquiry Officer without any valid reasons. Further, the request for engaging a lawyer to assist him in the enquiry was also turned down by the Enquiry Officer. Sri Jayakaran Daniel then requested for 15 days time to engage atleast a defence assistant to assist him in the enquiry. Even this request was turned down and the enquiry was posted to the very next day i.e. 19-12-95 at 11.00 am. Because of this attitude of the Enquiry Officer, blood pressure of Sri Jayakaran Daniel sought up and he had to take treatment with Doctor Arun Daniel and the Doctor advised him to take medical leave for seven days. In such circumstances, Sri Jayakaran Daniel sent a telegram followed by a letter to the Enquiry Officer that on 19-12-95 enclosing the medical certificate requesting adjournment for enquiry. The letter was received by Enquiry Officer at 10.55 am on 19-12-95. The Enquiry Officer without assigning any valid reason, rejected the request for adjournment and without intimating Sri Jayakaran Daniel decided to conduct the enquiry ex-parte. Only on that day, the presenting officer gave the list of witnesses and list of documents which the Management was going to mark in the enquiry. On the very same day, in the

absence of Sri Jayakaran Daniel, the Management had examined three witnesses, thereafter, the enquiry was adjourned to 20-12-95 and on that date two witnesses appeared as Management witnesses were examined and that the enquiry was closed. Sri Jayakaran Daniel came to know all these things, only when the Respondent/Bank sent the enquiry proceedings and the enquiry report along with letter dated 16-3-96. The Enquiry Officer before submitting his report ought to have given an opportunity to the delinquent employee to cross examine the Management witnesses and afforded the delinquent employee to let in evidence on his side. Failure to give such an opportunity is in violation of principles of natural justice. Hence, the enquiry conducted by the Management is liable to be set aside. The written arguments of the Presenting Officer also was not forwarded to the delinquent employee to give his defence statement after conclusion of the enquiry proceedings. Failure to give such an opportunity has caused great prejudice to the delinquent employee. The Enquiry Officer has submitted his findings holding that all the charges are proved and the delinquent is guilty of the charges framed against him. Such a finding is perverse and without legal evidence. From the enquiry proceedings it is seen that the Enquiry Officer has taken active part by cross examining the management witnesses by putting leading questions. He acted as Prosecutor-cum-Enquiry Officer. This shows he had not acted fairly and he has biased. The ex-parte enquiry was concluded on 20-12-95. But the Enquiry Officer has submitted his findings only on 27-2-96. The enquiry proceedings dated 19-12-95 and 20-12-95 and the enquiry report along with a letter of Disciplinary Authority dated 16-3-96 were sent to the delinquent employee. The findings of the Enquiry Officer is one sided and perverse. All the allegations in the charge sheet are innuovative, imagination of the Respondent just to victimize the delinquent employee. The delinquent employee gave his comment on 10th April, 1996. The Disciplinary Authority without considering the objections raised by the delinquent employee issued second show cause notice dated 10-7-96 and the proposed punishment of dismissal from service. The delinquent employee gave his explanation to the 2nd show cause notice on 13-7-96. In spite of this, the Disciplinary Authority in order to victimize the Petitioner for his legitimate trade union activities dismissed him from service by an order dated 3-8-96. The past record of 17 years of services of delinquent employee has not taken note of. Hence, the punishment is illegal and contrary to the Bipartite Settlement. It amounts to unfair labour practice. The other persons named in the charge sheet were not issued with any charge sheet nor they were subjected to any domestic enquiry. This amounts to hostile discrimination. The Respondent/Management have already illegally imposed the punishment of wage cut for the alleged incident on 31-8-94 for the same incident, they cannot now initiate disciplinary proceedings against Sri Jayakaran Daniel. Their action is illegal, arbitrary and violative of principles of natural justice. The punishment imposed is grossly disproportionate to the alleged charges. Therefore it is prayed that this Hon'ble Tribunal may be pleased to interfere under Section 11A of the Industrial Disputes Act, 1947 with regard to quantum of punishment. Hence, this Tribunal may be pleased to pass an award holding that the non-employment of the delinquent employee Sri Jayakaran Daniel is

illegal and consequently direct the Respondent/Management to reinstate him in service with full back wages and all other attendant benefits.

3. The averments in the Counter Statement of II Party/Management are briefly as follows :—

On or about 17-8-94, the Respondent/Bank had created the post of Chief Regional Manager to oversee and supervise the functioning of Regional Managers. The O/o Regional Managers and Chief Regional Manager were functioning in the Head Office of the Respondent/Bank which is situated at 756, Anna Salai, Chennai. For the purpose of assisting the Chief Regional Manager and for carrying out his day to day correspondence work, a stenographer to the Secretariat of Chief Regional Manager was decided to be posted. On 31-8-94, the Respondent/Bank transferred and posted one Mrs. Usha Srinivasan, who was working as a stenographer in the Personnel Department of Head Office to the Chief Regional Manager's Secretariat. The Personnel Department is situated in the 4th floor of the Head Office premises, while the Chief Regional Manager's Secretariat was functioning in the 2nd floor of the very same premises. When the order of transfer was tendered to Mrs. Usha Srinivasan at 4.15 pm on 31-8-94 by the then Personnel Manager Sri S. Kesavaraman, she refused to accept the order saying that she had received instructions from Sri Jayakaran Daniel who was the then General Secretary of the Petitioner Union not to accept it. A few minutes later Sri Jayakaran Daniel led a crowd of the Head Office Award Staff gate crashed into the cabin and gheraoed Mr. Kesavaraman against the transfer of Mrs. Usha Srinivasan. Mr. Jayakaran Daniel abused Sri Kesavaraman and threatened to manhandle him, if the transfer order was not withdrawn. On 1-9-94, the workman of the Registered Officer of the Respondent/Bank resorted to a pen down strike from 10.00 am to 1.30 pm protesting against the order of transfer issued to Mrs Usha Srinivasan. Again between 1.30 and 2.00 pm, they gathered in front of the main entrance blocking the way to the large advances branch and the Head Office and shouted slogans against the Respondent/Bank after a meeting. The workmen held demonstrations on 2-9-94 and 3-9-94 as well. As disciplinary action was contemplated against Mr. Jayakaran Daniel who had committed acts of misconduct in the Personnel Manager's cabin on 31-8-94 (who was also General Secretary of the Union), the Respondent/Bank apprehended that there was every likelihood of the Petitioner Union further intensifying their agitational programme within the precincts of the bank. In these circumstances, the Respondent/Bank instituted C.S. No. 1130/94 in the High Court of Madras, praying for a permanent injunction restraining the Petitioner Union its office bearers, members, agents, servants or anyone acting on their behalf from assembling, gathering, shouting slogans, holding any demonstrations in any form and from preventing ingress and egress of the Chairman, other Executives, Officers and Customers to and from the bank's premises. On an application moved by the Respondent/Bank, the Hon'ble High Court passed an order of ad interim injunction on 6-9-94 restraining the Petitioner Union from holding any meeting in the Respondent/Bank's premises situated at No. 756, Anna Salai, Chennai-600002 and obstruction the ingress and egress

of the bank's premises or carrying on any demonstration within the bank's premises which would have the effect of disrupting the normal functioning of the Respondent/Bank. On 1-9-94, the then Personnel Manager, Sri S. Kesavaraman had submitted a report to the Dy. General Manager of the bank on the incidents that had taken place in the Personnel Department on the previous day. On the basis of the report submitted by him, the Disciplinary Authority for clerical staff, issued charge sheet dated 6-9-94 to Mr. Jayakaran Daniel for the acts of misconduct committed by him on 31-8-94. Though the charge sheet was served on Mr. Jayakaran Daniel on 12-9-94, he did not submit his written statement of defence either within the period of 15 days or at any time thereafter. To thwart the process of enquiry, he, the then General Secretary of the Petitioner Union, issued strike notice dated 8th November, 1994 raising as many as 38 demands. One of the demands was the withdrawal of the charge sheet issued to him. On receipt of the copy of the strike notice, the Assistant Labour Commissioner (Central) initiated conciliation proceedings. The officer appointed to conduct an enquiry into the charges Sri R. D. Sharma held sittings on 14-3-95, 25-3-95, 13-5-95 and 15-11-95. The enquiry on 15-11-95 was adjourned to 21-11-95 on the request of the charge sheeted employee. Again on his request, the Enquiry was adjourned to 8-12-95 from 21-11-95. The Chairman of the Respondent/Bank in exercise of the powers conferred on him passed an order on 30-10-95 removing the list of officers, who were to act as appointee new Disciplinary Authorities and Appellate Authorities in respect of the Award staff. As per that order, the Assistant General Manager of the bank became Disciplinary Authority for clerical staff and when he made a review of the pending disciplinary proceedings found that Mr. Sharma, Enquiry Officer had 'hardly made any progress in the enquiry pending against the charge sheeted employee. Hence, by an order dated 27-11-95, Mr. R. K. Gupta was appointed as Enquiry Officer in the place of Sri R. D. Sharma and Mr. K. C. Kumar was appointed as Presenting Officer in place of Mr. V. Seshagiri Rao. Mr. Gupta issued a notice dated 27th November, 1995 advising the charge sheeted employee that the enquiry will be held at 11.00 am on 12-12-95 to which date the enquiry had been postponed earlier by his predecessor. It was also informed therein to the charge sheeted employee that if it was not possible for him to appear for the enquiry on the said date, he would apply for an adjournment at least a week in advance of the hearing. The charge sheeted employee sent a reply to that notice dated 6-12-95 to that notice seeking a long adjournment of the enquiry in view of the conciliation proceedings pending before the Assistant Labour Commissioner (Central). By letter dated 9-12-95, the Enquiry Officer advised the charge sheeted employee that the enquiry had been pending for a quite long time, it would not be possible for him to adjourn the enquiry for an indefinite period and he adjourned the enquiry to 18-12-95. The charge sheeted employee sent a fax message dated 12-12-95 requesting the Enquiry Officer to keep the enquiry in abeyance, till the disposal of the suit pending before the High Court of Madras. After consulting the Presenting Officer, the Enquiry Officer sent a reply dated 14-12-95 advising the charge sheeted employee that his request could not be accepted and he advised further that he would proceed with enquiry on 18-12-95 and that if the charge sheeted employee wanted to

make any further representation he would be at liberty to do so at the enquiry. The charge sheeted employee appeared for enquiry on 18-12-95 and reiterated his request for deferring the enquiry till the disposal of the case in the High Court. His request was denied by the Enquiry Officer. Then the charge sheeted employee requested time for engaging defence representative to defend him in the enquiry. The enquiry was posted to 3.30 pm on the same day to enable the charge sheeted employee to bring him defence representative. When the enquiry was resumed at 3.30 pm, the charge sheeted employee produced a copy of his letter dated 18-12-95 wherein, he had requested the Disciplinary Authority to grant permission for engaging a lawyer for assisting him in the enquiry. As the permission sought for was not given by the Disciplinary Authority, the charge sheeted employee requested 15 days time to appoint defence representative from his parent organisation, NCBE. Considering the fact that his predecessor had given adequate number of adjournments and he himself has given adequate number of notice to the charge sheeted employee sufficiently in advance, the Enquiry Officer pointed out that the charge sheeted employee should have come prepared for the enquiry along with his defence representative. He however, adjourned the enquiry to 11.00 am on 19-12-95. On 19-12-95, the charge sheeted employee did not appear for enquiry instead, he sent a telegram as 'Unwell. Unable to be present. Kindly adjourn enquiry letter follows'. Following the telegram, the Enquiry Officer received a letter dated 19-12-95 from the charge sheeted employee requesting for an adjournment of the enquiry, until he resumes duty. In support of his application, the charge sheeted employee forwarded a medical certificate dated 19-12-95 of Dr. O. Arul Daniel. After perusal of the service records of the charge sheeted employee and the enquiry proceedings, the Enquiry Officer was not convinced about the genuineness of the request made by the charge sheeted employee. Therefore, he decided to proceed with the enquiry, even in the absence of charge sheeted employee. The concerned employee had simultaneously applied to the bank for leave for seven days from 19-12-95 on the ground that he was sick. The Respondent/Bank advised him to appear before the bank's Doctor on 22-12-95 for medical examination. He did not appear for the medical examination. On the contrary, he sent a letter dated 22-12-95 requesting the bank to fix another date for medical examination. Therefore, he was advised to appear for medical Examination on 24-12-95. His application for sick leave could not be considered by the Respondent/Bank. On 19-12-95, the charge sheeted employee was set ex parte and the Enquiry Officer recorded the evidence of management witnesses on 19-12-95 and 20-12-95. While on the one hand, the charge sheeted employee was corresponding with the Enquiry Officer to keep the enquiry in abeyance, till the disposal of the C.S. No. 1130/94, on the other hand, he was taking steps to move the Court for injunction to restrain the bank from proceeding with the enquiry. As the process of filing the suit was in progress, he again pleaded for adjournment of the enquiry on 18-12-95 on some pretext or the other and finally did not choose to appear for the enquiry on 19-12-95 on medical grounds. The Respondent/Bank came to know about the suit in C.S. No. 2087/95 only when it received the notice dated 21-12-95 from the charge sheeted

employee's counsel informing the Chairman of the Respondent Bank that in O.A. No. 1342/95 in C.S. No. 2087/95, the Hon'ble High Court has passed an order on 21-12-95 restraining the bank from passing any order of dismissal or termination. In that petition, the concerned employee has prayed for interim injunction to restrain the Respondent Bank from any manner proceeding with the enquiry pursuant to the charge sheet dated 6-9-94, pending appeal of the suit. On this application, the High Court passed an order on 21-12-95 as above. By a subsequent order dated 6-3-96, the High Court was pleased to vacate the order of ex-parte interim injunction. The OSA No. 71/96 filed by the Petitioner was also dismissed by the Division bench of the High Court 27-3-96. In the meantime, the Enquiry Officer submitted his report dated 27-2-96 to the Disciplinary Authority. After the dismissal of OSA No. 71/96 the Disciplinary Authority forwarded the copies of enquiry proceedings and the enquiry report with his covering letter dated 16-3-96 advising the concerned employee to offer his comments, if any, on the enquiry report. On the request made by him, extension of time was granted for submission of his comments till 10-4-96. He submitted his comments only on 6-5-96. In that letter, he did not ask for reopening of the enquiry. Between 19th December, 1995 and 16-3-96, there was no representation from the charge sheeted employee enquiring about the fate of his application for adjournment nor any earnest plea for postponement of the domestic enquiry was made by him. Upon careful consideration of the enquiry report and the proceedings in the light of the charge sheeted employee's comments, the Disciplinary Authority issued a notice dated 10-7-96 proposing to impose upon the charge sheeted employee the penalty of dismissal in terms of clause 19.6(a) of the Bipartite Settlement dated 19-10-1966. The Disciplinary Authority advised the charge sheeted employee in that letter itself that he would be given a personal hearing at 11.00 am on 13-7-96 regarding the nature of the proposed penalty. The charge sheeted employee did not, however, choose to appear for the personal hearing. Instead, he sent a letter dated 13th July, 1996. With a view to provide another opportunity to the charge sheeted employee the Disciplinary Authority adjourned the personal hearing to 3.00 pm on 22-7-96 and intimated the same through his letter dated 15-7-96. Even for that hearing also, the charge sheeted employee did not appear. At 2.15 pm on that day, the Disciplinary Authority received a letter from the charge sheeted employee containing certain untenable contentions. Thus, the charge sheeted employee did not avail himself of the opportunity of personal hearing provided to him by the Disciplinary Authority. Two settlements with regard to the promotion of clerical staff to officer cadre as well as with regard to promotion of subordinate staff to clerical cadre dated 7-1-87 and 17-6-88 were made. There were to remain in operation for a period of three years. The employees who were given time bound promotion purely based on seniority on coming to the higher cadre could not adopt themselves to the changed business environment of the banking industry. Therefore the Respondent wanted to do away with the system of promotion purely based on seniority. In order to give effect to the proposed policy the bank issued two notices dated 7-6-94 termination the two settlements dated 7-11-87 and 17-6-88. The change of promotion policy have

to be given in the interest of maintaining the efficiency of the bank's service. The compulsion due to the competitive environment in banking industry did not permit the Respondent to evolve their consensual promotion policy nor as the Petitioner Union in a move to come to an early settlement on any issue. On 31-8-94, three employees including Mrs. Usha Srinivasan were transferred. When Mrs. Usha Srinivasan was transferred from 4th floor to 2nd floor of Head Office, the other two were transferred from the Head Office to Main Branch, which is hardly one kilometre away from the Head Office. The other two employees are Nikhila Selvakumar and S. Rajamanickam immediately complied with the transfer and they did not lodge any protest. The entry of Jayakaran Daniel into the cabin of the Personnel Manager at 4.30 pm on 31-8-95 was to intimidate the officer and brow beat him and had abused the Personnel Manager. It was not the delegation to make a representation on behalf of any aggrieved members of the Union. The transfer of Mrs. Usha Srinivasan from the 4th floor to 2nd floor and the other two within the city were not such a grave provocative issues warranting such an aggressive attitude on the part of Jayakaran Daniel towards the Personnel Manager. The past record of service of Sri Jayakaran Daniel was neither exemplary nor worthy of mention for Jayakaran Daniel to boast of his association of an employee with the bank. The alleged complaint to the Reserve Bank of India were all matters subsequent to the incident on 31-8-94 which led to the issue of charge sheet to Jayakaran Daniel. The fact that the Deputy General Manager signed the pleadings and also issued charge sheet will not in any manner vitiate the charge sheet issued to Sri Jayakaran Daniel. The charges were all true and were duly established in the enquiry held for the purpose. Jayakaran Daniel never made any request to furnish the list of documents. He did not submit his explanation to the charge sheet. The procedure for taking disciplinary action as laid down in the Bipartite Settlement does not require furnishing of list of documents or list of witnesses along with the charge sheet to the charge sheeted employee. Even in any of the preliminary case, he did not make any request either for list of documents or for list of witnesses. The Enquiry Officer's findings are based on evidence produced before him on the other materials available on records. The findings of the Enquiry Officer are neither perverse nor without legal evidence. The charges were framed against Jayakaran Daniel on the basis of the report dated 1-9-94 submitted by Sri Kesavaraman. The Enquiry Officer had elicited necessary information whenever necessary from the witnesses for the purpose of clarifying his own doubts. The efforts taken by the Enquiry Officer to ascertain the correct facts from the witnesses in the course of enquiry proceedings cannot be characterized as cross examination. Upon careful consideration of the enquiry proceedings, the enquiry report and having regard to the gravity of the charges proved, the Disciplinary Authority finally passed orders on 3-8-96 imposing upon the charge sheeted employee the penalty of dismissal. The punishment imposed on the delinquent employee is neither an act of victimisation nor was it by way of unfair labour practice. The disciplinary action initiated against Jayakaran Daniel for the various acts of misconduct have nothing to do with the wage cut, if any, effected for his absence from duty from 4.30 pm to 5.00 pm on 31-8-94. The punishment imposed upon Jayakaran Daniel is not grossly disproportionate to

the charges. Hence, the Tribunal may be pleased to pass an award rejecting the claim of the Petitioner.

4. The Point for my consideration is—

1. "Whether the findings of the Enquiry Officer is perverse and without any basis"?
2. "Whether the action of the management of Bharat Overseas Bank Ltd. in terminating the services of Sri Jayakaran Daniel is an act of victimisation for legitimate trade union activities and whether it is an unfair labour practice of the Respondent/Management"?
3. "Whether the Respondent/Management in terminating the services of Sri Jayakaran Daniel is an excessive punishment, illegal and unjustified? If not, to what relief the concerned workman is entitled"?

5. Earlier a preliminary issue has been decided as to whether the domestic enquiry conducted by the Management against the concerned workman Sri Jayakaran Daniel was fair, proper and according to the principles of natural justice. An order has been passed in that preliminary issue by this Tribunal holding that the domestic enquiry conducted against the delinquent employee Sri Jayakaran Daniel was fair, proper and in accordance with the principles of natural justice, since sufficient and adequate opportunity were given to him to defend himself in the domestic enquiry effectively. Now, the other points remaining for consideration are as stated above.

6. Point No. 1:—

The concerned workman/employee Sri Jayakaran Daniel was the office bearer of the Petitioner Union as General Secretary. A charge sheet dated 6-9-94 was issued to him alleging that he along with Sri Ambrose Ravi Kumar, Sri N. Sethuraman, Sri Jayakumar, Sri R. Manohar and few others gate crashed into the Personnel Manager's cabin in an aggressive posture, threatened, abused and shouted slogans and that by forcibly opening the cabin door of the Personnel Manager, which resulted in damage to the door closure and that Sri Jayakaran Daniel along with others gheraoed the Personnel Manager and thereafter shouted slogans abusing the management in the 3rd floor of the bank premises, where the Chairman's cabin and Secretariat is situated, after abstaining from duty. For this misconduct six charges against Sri Jayakaran Daniel have been mentioned in the charge memo. A xerox copy of the charge memo is Ex. W1. It is alleged in the Claim Statement of the Petitioner Union that the charges levelled against Sri Jayakaran Daniel have been foisted only to victimise him for his legitimate trade union activities and there is not an iota of truth in the allegations made in the charge sheet dt 6-9-94. It is further alleged in the Claim Statement that the findings of the Enquiry Officer holding that all the charges are proved is perverse and without any legal evidence and that the charges framed against the employee is totally baseless and there is no truth in the charges. It is further alleged that the findings of the Enquiry Officer is one sided and perverse and he failed to see that there is no basis for the charge sheet, that all the allegations in the charge sheet are innovative, imagination of the Respondent just to victimise

the delinquent employee. But for the oral assertion of the Management witnesses with regard to the allegations in the charge sheet, there is no iota of evidence to prove the charges. But it is admitted in the Claim Statement that on 31-8-94 all the employees being agitated by the vindictive transfers issued by the Management, approached the Personnel Manager to represent their displeasure. It is further stated in the Claim Statement that the delinquent employee along with Sri Ambrose Ravikumar, Vice-President of the Petitioner Union had to make a representation to the Personnel Manager on 31-8-94 around 4.20 p.m. They had to seek clarification from Personnel Manager as to why he had to transfer Mrs. Usha Srinivasan, who has been discharging her duties most consciously and diligently all these years. Merely to accommodate his own stenographer from the Law Department and the reasons for abrupt transfer of other two members out of Head Office. The delinquent employee did not keep the Personnel Manager, in unlawful confinement, that the members of the Petitioner Union have not disconnected the telephone of the Personnel Manager under the instigation of the delinquent employee, that none of the Members used any sort of filthy language against the Personnel Manager or Chairman and it is totally incorrect to state that the few officers and Regional Manager came into the cabin of the Personnel Manager on hearing shouts and that ignoring all these facts, the Enquiry Officer has held that the delinquent employee guilty of the charges without any legal evidence and the findings of the Enquiry Officer is perverse and without any basis and he has not given any valid reason for holding the delinquent guilty of the charges.

7. In the Counter Statement, these allegations of the Petitioner Union in the Claim Statement have been denied. Further, it is stated in the Counter Statement that the entry of Sri Jayakaran Daniel into the cabin of Personnel Manager at around 4.30 pm on 31-8-94 was to intimidate the officer and to provoke him. He had abused the Personnel Manager. It was not the delegation to make a representation on behalf of any aggrieved members of the Union. The transfer of Mrs. Usha Srinivasan from the 4th floor to 2nd floor and the other two within the city were not such a provocative issue warranting such an aggressive attitude on the part of Sri Jayakaran Daniel towards the Personnel Manager. It is denied that the charges against Sri Jayakaran Daniel were made by way of victimisation for his trade union activities. The charges were all true and were duly established in the enquiry held for the purpose. Holding the delinquent employee guilty of the charges, the Enquiry Officer took into account the entire evidence adduced by the Management and the materials available on record. The Enquiry Officer's findings are based on evidence adduced before him and other materials available on record. The findings of the Enquiry Officer are neither perverse nor without legal evidence as alleged. The charges were framed against Sri Jayakaran Daniel on the basis of the report dated 1-9-94 submitted by Sri S. Kesavaraman. The allegation that no complaint was lodged by any of the witnesses is not therefore correct. The Enquiry Officer had elicited necessary information wherever necessary from the witnesses for the purpose of clarifying his own doubts. The

efforts taken by the Enquiry Officer to ascertain correct facts from the witnesses in the course of enquiry proceedings cannot be characterised as cross examination. It is denied that the Enquiry Officer's findings are one sided and perverse. As a matter of fact, the charges against the delinquent employee were on the basis of the report dated 1-9-1994 submitted by Sri S. Kesavaraman to Deputy General Manager of the bank. The assumption that the disciplinary proceedings were initiated against the delinquent employee without any complaint is erroneous. The Disciplinary Authority forwarded the copy of the enquiry officer's report to the charge sheeted employee under the cover of his letter dated 16-3-1996 seeking latter's comments, if any, on the enquiry report. The charge sheeted employee finally submitted his comments on 6-5-96. The Disciplinary Authority dealt with the comments of the charge sheeted employee in his notice dated 10-7-96 addressed to him. It was only after dealing with the employee's comments, the disciplinary authority has proposed in his notice dated 10-7-96 he imposed penalty of dismissal. The charge sheeted employee did not appear for the personal hearing on many times. Upon careful consideration of the enquiry proceedings, the enquiry report and also connected records and having regard to the gravity of the charges proved, the Disciplinary Authority finally passed orders on 3-8-96 imposing upon the charge sheeted employee, the penalty of dismissal. The punishment imposed on the delinquent employee is neither an act of victimisation nor was it by way of unfair labour practice as alleged. It is denied that the charge sheet was issued to Sri Jayakaran Daniel with a view to victimise him for his trade union activities.

8. It is admitted that the enquiry was held ex-parte, since the delinquent employee, the concerned workman, Sri Jayakaran Daniel has not availed the various opportunities given to him to participate in the enquiry. Ex. W39 is the xerox copy of the covering letter dated 16-3-96 sent by Disciplinary Authority to concerned workman Sri Jayakaran Daniel. Along with that letter the Enquiry Officer's report dated 27-2-96 holding that the charges framed against the concerned workman are proved and the photocopies of enquiry proceedings have also been sent advising the concerned workman to submit his comments. A perusal of the enquiry proceedings as under Annexure Ex. W39 covering letter clearly shows that in the domestic enquiry six witnesses have been examined and four documents have been exhibited, MW1 Sri K. C. Kumar, MW3 Mr. Kesavaraman, MW4 Sri T. K. Rajasekar and MW5 Kannabiran have given evidence before the Enquiry Officer about the occurrence took place on 31-8-94 at the Personnel Manager's cabin at 4.15 pm. They have deposed consistently about the incident that took on 31-8-94. After analysing the evidence along with the evidence of MW2 Sri Ramesh and MW6 Sri Sankar, the Enquiry Officer has given a finding that all the charges six in number mentioned in charge sheet Ex. W1 have been proved beyond doubt.

9. The learned counsel for the Petitioner would argue that the charge memo under Ex. W1 is vague. It is mentioned in the charge memo that a huge gathering of Head Office staff gathered inside the cabin to gherao the Personnel Manager, but it is not

specifically mentioned how many persons were therein the gathering and who they were, how many lady members were there in the cabin. Further, though it is mentioned in the charge memo about an unruly, disorderly, and riotous behaviour of the persons within the premises of the bank, it was made without pointing out specifically as who did so and out of those people, who uttered those unparliamentary words mentioned in the charge memo and why the concerned employee alone has been picked up out of those four persons, to face the domestic enquiry in pursuance of the charge memo, when others also said to have indulged in those misconducts. It amounts to discrimination or victimisation. When it is mentioned in the charge sheet as "it is reported" no particulars has been given about the alleged report. Hence, the charge memo itself is vague.

10. For this, the learned counsel for the Respondent/Management would argue that for the first time it is mentioned in the argument that the charge memo is vague. When the concerned employee Sri Jayakaran Daniel has been examined here as WW1, herein Court did not say that the charge memo is vague. It is not stated so in the pleadings raised by the Petitioner Union as a Claim Statement. Only when particulars are lacking in the charge memo, it can be said that it is vague. Here in Ex. W1, the date, time and place of occurrence have been mentioned clearly. Further, it is not the evidence of WW1 that he was not able to give explanation, since the charge is vague. Further in the charge memo Ex. W1 itself, given to concerned employee Sri Jayakaran Daniel, it is clearly stated in very many places as 'you and Ambrose Ravikumar collected huge gathering, you ordered Mr. K. C. Kumar to go out' 'you then ordered the staff members to remain inside the cabin until the orders of transfers were withdrawn' 'you ordered the Personnel Manager Sri Kesavaraman to destroy the transfer orders' 'you threatened Mr. Kesavaraman uttering the following words' 'you ordered Mr. Ambrose Ravikumar to disconnect the line' 'you. Ordered Mr. Rajasekar to go out of the cabin' and you, have thus behaved in an unruly, disorderly and riotous manner and you have also wrongfully and illegally detained the Personnel Manager in his cabin. So from all these things, it is seen that all these acts of misconducts have been pointed out only against the concerned workman Mr. Jayakaran Daniel, the charge sheeted employee. So, it cannot be said that the charge is vague.

11. It is further argued by the learned counsel for the Petitioner Union that in the charge memo Ex. W1, it is stated that 'it is reported' but no report as a basis for this charge has been mentioned by the Respondent/Management. So, it is a baseless charge. For this, the learned counsel for the Respondent/Management would argue that whether there was a complaint or not, the incident as mentioned in the charge memo has not been disputed or denied.

12. Further, it is the contention of the learned counsel for the Petitioner that though the occurrence had taken place on 31-8-94, the witnesses in the enquiry were examined about one year four months later and it is not humanly possible to remember all about the incident to give evidence in detail without any omissions or commissions. It is but natural that after such a long passage of time the witnesses could not remember to give evidence verbatim as it is

mentioned in the charge memo, because human memory is very weak. Further, the evidence of MW1 as seen from the enquiry proceedings, is more artificial. All the witnesses shown to have given evidence repeating the same words as parrot like and it is nothing but artificial and hence the evidence let in on the side of the management before the Enquiry Officer cannot be considered as legal evidence. The learned counsel for the Respondent/Management would contend that since all the witnesses were there at the time of occurrence as eye witnesses, they were able to speak about the occurrence as it had happened. Merely because these witnesses who have examined after one year four months had given consistent evidence, it cannot be said that it is artificial and not legal evidence. Hence, they are not lacking in credit worthiness. Further, when the concerned charge sheeted employee had not participated in the enquiry, it is not open to the Petitioner Union now to make a mention of all these things as artificial or not legal evidence. He would further contend that when these two persons who were there at the time of occurrence as mentioned in the charge sheet have been examined as WW1 and WW2 here, they have not stated that one such occurrence had not taken place on 31-8-94 and it is only an imagination of the Respondent/Management to put it as an occurrence in Ex. M1 charge memo. On the other hand, both of them have not mentioned in their evidence that the alleged incident mentioned in charge memo Ex. M1 is a concocted story made out of the fertile imagination of the Respondent/Management. Further, the Respondent/Management cannot examine the other people, who took part in the incident along with the persons mentioned in the charge sheet, to speak about the incident because they as a group of employees who came there only at the instance of the charge sheeted employee. Further, when the charges have been proved as per the Enquiry Officer's report, the question of victimisation does not arise. All these arguments advanced by the learned counsel for the Respondent/Management as a reply to the arguments advanced by the learned counsel for the Petitioner Union can be accepted as correct on the basis of reliable materials available in this case. Further a perusal of the Enquiry Officer's report, it is seen that sufficient evidence has been given by the management witnesses in the domestic enquiry which are consistent and un rebutted evidence for him to give the findings that all the charges have been proved beyond doubt. The Enquiry Officer had given such findings after analysing the entire evidence in detail. As per the evidence of MW2, the Chief Manager, Personnel Department before the Enquiry Officer that he joined the department only on 17-8-1994 just two weeks prior to this incident. So, it cannot be said that within that short period, he had an intention to victimise the charge sheeted employee by levelling a false charge of misconduct against him. So under such circumstances, it can be easily concluded that the contention of the Petitioner Union as argued by the learned counsel for the Petitioner that the Enquiry Officer's findings are perverse and without basis, and legal evidence is incorrect. So under such circumstances, there is no scope for this Tribunal to interfere with the findings given by Enquiry Officer in his report that all the charges mentioned in the charge memo against the charge sheeted employee Sri Jayakaran Daniel have been proved beyond doubt.

Thus the Point No. 1 is answered accordingly.

Point No. 2 :—

13. It is the argument of the learned counsel for the Petitioner that the action of the management in dismissing the concerned employee Mr. Jayakaran Daniel in the guise of a proved misconduct in the domestic enquiry is nothing but victimisation, when a group of people indulged in particular misconduct each person would be guilty of overt act. But no charge against anybody else other than Sri Jayakaran Daniel has been given and therefore, it is vitiated by principle of discrimination. So, in the light of this discrimination, it is nothing but victimisation against the concerned employee. Further, the Respondent/Management has not given any explanation as to why no action was initiated against others. This plea has been taken in para 32 of the Claim Statement itself, but it is not denied in the Counter Statement. In the Counter Statement, the Respondent/Management has simply stated that the conduct of Jayakaran Daniel on 31-8-94 was high handed and abusing and such a conduct warranted initiation of disciplinary action. No reason was given for taking disciplinary action exclusively on the concerned workman Sri Jayakaran Daniel for the alleged occurrence on 31-8-94.

14. The learned counsel for the Respondent/Management would contend that the concerned employee, while giving evidence here as WW1 has deposed that as General Secretary of the Union, he used to play the dominant role and used to be in the forefront. This admission of WW1 in his evidence with his undisputed presence at the time of occurrence as alleged in the charge memo establishes that one such occurrence has taken place and the charge sheeted employee has played a prominent role in that incident. It is not the contention of the Petitioner Union that one such incident has not at all taken place and the concerned employee has not at all participated in that incident. It is also not the case of the Petitioner Union that the incident that took place in the evening on 31-8-94 in the cabin of Chief Personnel Manager, is not as mentioned in the charge memo. The learned counsel for the Respondent would further argue that victimisation is a serious charge by an employee against the employer and therefore it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. In support of this contention the learned counsel has relied upon a judgement of the Supreme Court reported as 1976 LAB IC pg. 4 between M/s. Bharat Iron Works and Bhagubhai Balaubhai Patel and Others. In that judgement, the Hon'ble Supreme Court has held that 'victimisation is a serious charge by the employee against the employer and therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. The fact that there is a Union espousing the cause of the workman in legitimate trade union activity and an employee is a member or active office bearer thereon is per se, no crucial instance. The onus of establishing the plea of victimisation will be upon the person pleading it. Mere allegations, vague suggestions and insinuations are not enough. A proved misconduct is antithesis of victimisation as understood in industrial relations'. Here, in this case it is not the plea of the Petitioner Union by giving particulars

upon which the charge is based to show that it is only victimisation. In the above mentioned decided case, the employees were charged by the Management on October 29, 1972 and they denied the charges as false and pleaded victimisation on account of trade union activities. A domestic enquiry was held on December 24, 1972 and orders of dismissal were passed on March 12, 1973. The Tribunal did not find any defect in the domestic enquiry since the workmen repeated the plea of victimisation before the Tribunal. Evidence of both parties were recorded only with regard to that pleading. Evidence was not given before that Tribunal with regard to the actual incident. The management filed the proceedings of the domestic enquiry and also certain other documents. In that case, the Tribunal after examining the evidence of the domestic enquiry, held that no prima-facie case was made out against the workman concerned and that the findings of the Enquiry Officer were perverse and not bona fide. Here, in this case, it is seen from the proceedings of the domestic enquiry, the findings of the Enquiry Officer were not perverse, since sufficient, legal evidence was there to conclude that the charges levelled against the delinquent employee has been proved beyond doubt. But the Hon'ble Supreme Court finally held in that case that 'the Tribunal went to hold the management guilty of victimisation and it is manifest error of law on the part of the Tribunal in coming to the conclusion that the management was guilty of victimisation. If the findings of the Tribunal that it was the case of victimisation is correct, the Tribunal could interfere with the orders of dismissal and if the Tribunal held as should have been rightly held, that the offence was established, no question of victimisation could arise. Such an incident may be an unholy spark and aberrary out of certain prevailing confrontation that cannot have the protective umbrella of legitimate trade union activity'. This decision of the Supreme Court is squarely applicable to this case. The learned counsel for the Respondent/Management had cited another decision of the Supreme Court reported as 1969 2 LLJ 673 between Workmen of Motor Industries Co. Ltd. and Motor Industries Co. Ltd. and Another in support of his argument that in the group of people who joined in the incident along with the charge sheeted employee mentioned in the charge memo and the charge sheeted employee alone has been proceeded against by taking disciplinary action against him, it cannot be said that it is a discriminative action of the management against him only and it is a victimisation of the charge sheeted employee. In the cited case, it is observed by the Supreme Court that 'the management took action only in respect of acts which were riotous and disorderly behaviour as very grave in nature, we do not think that in taking this view, the management discriminated against the three workmen concerned as against the rest of that they dismissed them with the object of victimising. The evidence in the enquiry clearly disproved that when the crowd forced its way into the G2 Department, it was led by these three workmen all of whom were in the forefront thereof and two of them had defiantly forced the officers to leave their tables. One of them had threatened as to what he and the others who had behaved him in that crowd could do to him, if he did not comply and the other had tried even to lift another officer from his chair to compel him to leave his place of work. In these circumstances, the management cannot be blamed if they

took a serious view of these acts for the three workmen are concerned, who had taken up their position in the forefront of that crowd, the position indicated of their having led the crowd into that department and having acted as its leaders. Having been found to be the leaders of that crowd, the action taken against them cannot on any principle be regarded as discriminatory or unequal. Once a misconduct braver than that of the rest was found proved against these three workmen and for which the punishment is dismissal, victimisation cannot legitimately be attributed to the management. As it is argued by the learned counsel for the Respondent/Management, the facts referred to in the above mentioned decided case by the Supreme Court is quite similar to the facts of this case. In the present case also, as admitted by WW1 in his evidence, he was there in the forefront as General Secretary of the Union during the incident that took place on 31-8-94. Under such circumstances, the decision given by Hon'ble Supreme Court in the above cited case is quite applicable to this case also. Under such circumstances, it cannot be said that the action of the management of Bharat Overseas Bank Ltd. in terminating the services of Shri Jayakaran Daniel is an act of victimisation for legitimate trade union activities and it is an unfair labour practice of the Respondent/Management. Thus the Point No. 2 is answered accordingly.

Point No. 3 :—

15. The learned counsel for the Petitioner would further argue that after introduction of Section 11A of Industrial Disputes Act, 1947, by an amendment, the Tribunal has got ample powers to interfere with the punishment when it comes to the conclusion that the punishment imposed is grossly disproportionate to the gravity of the misconduct. Here in this case after the alleged incident, the concerned employee had worked for two years without any complaint in the same office. If really, he has committed such a grave misconduct for the management to consider for imposing the punishment of dismissing him from service, the management would not have allowed the concerned employee to continue in service. So from this it is seen that the gravity of the alleged misconduct is not proportionate to the punishment of dismissal given by the Respondent/Management. The various submissions made by the learned counsel for the Petitioner Union citing various authorities are in respect of the powers of the Tribunal prior to the introduction of Section 11A in December, 1971 in the Industrial Disputes Act, 1947. Earlier, re-appreciation of evidence was not available and propriety of punishment cannot be gone into. Only after the amendment and introduction of Section 11A of the Industrial Disputes Act, 1947, the power of the Tribunal has been changed. He would further argue that, in Ex W46 the Disciplinary Authority has clearly stated that 'the gravity of acts of misconduct committed by you are serious enough to merit the imposition of the extreme penalty of dismissal. I have also looked into your past service records before taking this decision'. From this, it is seen that the Disciplinary Authority before imposing the punishment of dismissal from service against the delinquent employee for the proved misconduct has considered his past records. Perusing the past record by the Disciplinary Authority, before ever passing a final order in a disciplinary proceedings for imposing the adequate

punishment for the proved misconduct of the delinquent employee is only to see as to whether there are any extenuating circumstances for imposing a lesser punishment. Here in this case also, the learned counsel for the Petitioner had argued that the past record of this concerned workman is blemishless and it has not been taken note of by the Disciplinary Authority before imposing any punishment. So, on the basis of this, it is improper and illegal and hence, it has got to be interfered with by this Tribunal by imposing a lesser punishment. The learned counsel for the Respondent/Management has relied upon the decision of the Supreme Court in a case reported as 1999 1 LLJ 280 Cathelic Serian Bank Ltd. Vs. Industrial Tribunal, wherein it has held that 'merely because the delinquent employee has not suffered any penalty earlier and has performed meritorious service in the earlier years itself is not sufficient to hold that the order of dismissal could not have been passed, if that particular fact has been taken into account'. In the cited case, the Hon'ble Supreme Court has also held that 'where the misconduct of the delinquent is grave, the absence of penalty during his earlier period of service by itself would not constitute a sufficient basis for holding that the penalty is not in accordance with law. The lack lustre record is shown neither significant achievement nor the suffering of any penalty cannot contribute much to the decision regarding the penalty, where the misconduct established is a grave one'. Quoting an observation of the Court in another case, the Supreme Court has held that 'sympathy cannot be a ground for invalidating the dismissal and such sympathy is totally misplaced and where acts committed are grave in nature'. This decision of the Supreme Court is also squarely applicable to the facts of this case. The learned counsel for the Respondent/Management further argued that another decision of the Supreme Court reported as 2000 1 LLJ 424, is quite applicable to this case and on the basis of that decision it can be concluded that the proved misconduct of the concerned workman is grave in nature warranting a punishment of dismissal from service by the Respondent/Management. It is held in the above cited Supreme Court case that 'when the charges are serious in nature as a delinquent employee was found to have led out workmen from the factory premises and entered the administrative building of the management, and the room of the Deputy General Manager and abused the Deputy General Manager and the Management (Personnel) in filthy language and threatened amounts to misbehaviour of serious in nature and those serious charges against the workman worthy of his dismissal from service'. The facts of the above cited case, wherein the Hon'ble Supreme Court has made such an observation, are similar to the facts of this case. So, the said decision of the Supreme Court is quite applicable to this case also. From this, it is seen that such kind of misconducts which are serious in nature are condemnable acts and there cannot be two opinion about the gravity of such misconducts. Therefore, the imposition of punishment for such grave misconduct by dismissing the concerned workman from service cannot be considered as grossly disproportionate to the gravity of the proved misconduct. On the basis of the facts and circumstances of this case, these arguments advanced by the learned counsel for the Respondent/Management can be accepted as correct. Hence it can be concluded that the action of the management of Bharat

Overseas Bank Ltd. in terminating the services of Sri Jayakaran Daniel is legal and justified and the concerned workman is not entitled for any relief. Thus, the Point No. 3 is answered accordingly.

16. In the result, an Award is passed holding that the concerned workman/employee Sri Jayakaran Daniel is not entitled for any relief. No cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 15th April, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Claimant WW Shri Jayakaran Daniel.

For the II Party/Management : MWI Shri Ambrose C. Ravi Kumar

Exhibits marked :—

For the I Party/Workman : —

Ex. No.	Date	Description
W1	06-09-94	Xerox copy of the charge memo issued to Petitioner.
W2	04-09-94	Xerox copy of the plant in C.S. No. 11230/94.
W3	03-09-94	Xerox copy of the affidavit in O.A. No. 847/94
W4	12-09-94	Xerox copy of the counter affidavit.
W5	13-03-95	Xerox copy of the Notice to the Union for negotiation.
W6	14-03-95	Xerox copy of the letter from the Union to the Bank.
W7	13-05-95	Xerox copy of the letter from General Secretary to the Enquiry Officer.
W8	14-03-95	Xerox copy of the notice of enquiry.
W9	08-05-95	Xerox copy of the letter from Enquiry Officer.
W10	25-03-95	Xerox copy of the letter from Sri Jayakaran Daniel to Enquiry Officer.
W11	18-11-95	Xerox copy of the notice of enquiry.
W12	27-11-95	Xerox copy of the letter with regard to appointment of Enquiry Officer Sri R.K. Gupta.
W13	27-11-95	Xerox copy of the letter from the Bank to the Manager.
W14	27-11-95	Xerox copy of the letter from the bank to Sri Jayakaran Daniel.
W15	06-12-95	Xerox copy of the letter from Jayakaran Daniel to Enquiry Officer.

W16 09-12-95	Xerox copy of the letter from the bank to Sri Jayakaran Daniel.	W36 26-12-95	Xerox copy of the letter from bank to Jayakaran Daniel.
W17 12-12-95	Xerox copy of the letter from Jayakaran Daniel to Enquiry Officer.	W37 30-12-95	Xerox copy of the letter from Jayakaran Daniel to Chief Manager-Perscnnel.
W18 14-12-95	Xerox copy of the letter from bank to Enquiry Officer.	W38 26-12-95	Xerox copy of the Doctor certificate.
W19 13-12-95	Xerox copy of the letter from Presenting Officer to Enquiry Officer.	W39 16-03-96	Xerox copy of the letter from Disciplinary Authority Enclosing enquiry proceedings to Jayakaran Daniel.
W20 18-12-95	Xerox copy of the letter from Jayakaran Daniel to Disciplinary Authority.	W40 10-04-96	Xerox copy of the submission of Jayakaran Daniel on the findings of Enquiry Officer.
W21 18-12-95	Xerox copy of the enquiry proceedings.	W41 10-07-96	Xerox copy of the letter from the bank to Jayakaran Daniel on proposed punishment.
W22 18-12-95	Xerox copy of the letter from Disciplinary Authority to Jayakaran Daniel.	W42 13-07-96	Xerox copy of the letter from Jayakaran Daniel to Disciplinary Authority.
W23 Nil	Xerox copy of the telegram sent by Jayakaran Daniel to Enquiry Officer.	W43 13-07-96	Xerox copy of the letter from Jayakaran Daniel to Disciplinary Authority.
W24 19-12-95	Xerox copy of the letter from Jayakaran Daniel to Enquiry Officer.	W44 15-07-96	Xerox copy of the letter from bank to Jayakaran Daniel.
W25 19-12-95	Xerox copy of the Doctor's certificate.	W45 22-07-96	Xerox copy of the letter from Jayakaran Daniel to AGM.
W26 21-12-95	Xerox copy of the leave requisition form	W46 03-08-96	Xerox copy of the order of dismissal.
W27 19-12-95	Xerox copy of the Doctor's certificate.	W47 07-01-87	Xerox copy of the settlement under section 1 B(I) of Industrial Disputes Act, 1947 from Clerical to Officer Cadre Scale I.
W28 21-12-95	Xerox copy of the telegram sent by Chief Manager to Jayakaran Daniel.	W48 17-06-88	Xerox copy of the settlement under section 1B(1) of Industrial Disputes Act, 1947 from sub-staff to Clerical Cadre.
W29 21-12-95	Xerox copy of the letter from bank to Jayakaran Daniel.	W49 03-11-93	Xerox copy of the minutes of discussion regarding Promotion policy.
W30 22-12-95	Xerox copy of the letter from Jayakaran Daniel to bank.	W50 23-02-94	Xerox copy of the letter from Union to Bank.
W31 22-12-95	Xerox copy of the telegram sent by Chief Manager to Jayakaran/Daniel.	W51 07-06-94	Xerox copy of the notice of termination of settlement.
W32 23-12-95	Xerox copy of the letter from bank to Jayakaran Daniel	W52 07-06-94	Xerox copy of the notice of termination of settlement.
W33 23-12-95	Xerox copy of the Telegram sent by Chief Manager to Jayakaran Daniel.	W53 16-06-94	Xerox copy of the representation of Union to Bank.
W34 24-12-95	Xerox copy of the Telegram sent to Chief Manager by Sri Jayakaran Daniel.	W54 03-01-94	Xerox copy of the representation of Union to Bank.
W35 26-12-95	Xerox copy of the letter from concerned workman to Chief Manager.		

W55 Nil	Xerox copy of the advertisement for recruitment of Officer.	W76 11-05-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.
W56 17-01-94	Xerox copy of the representation of Union to Bank.	W77 16-06-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.
W57 17-02-94	Xerox copy of the representation of Bank to Union.	W78 27-07-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.
W58 23-02-94	Xerox copy of the circular No 8/94	W79 28-07-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.
W59 30-03-94	Xerox copy of the circular No. 226/94	W80 09-08-94	Xerox copy of the letter from Respondent/Bank to Jayakaran Daniel.
W60 04-04-94	Xerox copy of the letter from Union to Bank.	W81 28-06-95	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.
W61 08-11-94	Xerox copy of the circular No.36/94.	W82 01-08-97	Xerox copy of the memorandum given by Petitioner to Respondent/ Bank's Board.
W62 30-09-91	Xerox copy of the circular No.48/91	W83 13-07-96	Xerox copy of the letter from National Confederation of Bank Employees.
W63 19-09-94	Xerox copy of the notice by the bank.	W84 02-08-96	Xerox copy of the letter from All India Vysya Bank/Employees Union to Jayakaran Daniel.
W64 11-05-94	Xerox copy of the representation of union to Bank.	W85 29-10-87	Xerox copy of the letter from Respondent/ Bank to General Secretary of AIBOB.
W65 08-11-94	Xerox copy of the notice of strike issued to bank.	W86 11-05-96	Xerox copy of the letter from Respondent/Bank to Jayakaran Daniel.
W66 14-11-94	Xerox copy of the conciliation notice and proceedings.	W87 19-04-79	Xerox copy of the circular No. 17/79.
W67 26-10-87	Xerox copy of the letter from Respondent to Jayakaran Daniel.	W88 19-04-79	Xerox copy of the letter for special casual leave.
W68 18-10-93	Xerox copy of the letter from Respondent/Bank to Jayakaran Daniel	W89 07-02-93	Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.
W69 11-01-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.	W90 Nil	Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.
W70 18-01-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.	W91 Nil	Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.
W71 08-02-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.		
W72 25-02-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.		
W73 15-04-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank.		
W74 16-04-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank		
W75 25-04-94	Xerox copy of the letter from Jayakaran Daniel to Respondent/ Bank		

- W92 Nil Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.
- W93 Nil Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.
- W94 Nil Xerox copy of the resolution from 07-02-93 to April 1998 passed by All India Bharat Overseas Bank Employees Union.

For the II Party/Management :—

- M1 31-08-94 Xerox copy of the letter from Respondent to Mrs. Usha Srinivasan with regard to her transfer.
- M2 04-09-94 Xerox copy of the affidavit of Respondent in O.A. 847/94 in C.S. No. 1130/95.
- M3 06-09-94 Xerox copy of the order of High Court in O.A. No. 847/94.
- M4 06-03-94 Xerox copy of the letter from Enquiry Officer to Jayakaran Daniel.
- M5 14-03-95 Xerox copy of the enquiry proceedings.
- M6 14-03-95 Xerox copy of the letter from Enquiry Officer to Jayakaran Daniel fixing date of enquiry.
- M7 14-03-95 Xerox copy of the letter from President of AIOBEU to Enquiry Officer.
- M8 25-03-95 Xerox copy of the letter from Jayakaran Daniel to Enquiry Officer.
- M9 08-05-95 Xerox copy of the letter from Enquiry Officer to Jayakaran Daniel.
- M10 13-05-95 Xerox copy of the letter from Jayakaran Daniel to Enquiry Officer.
- M11 26-10-95 Xerox copy of the letter from Jayakaran Daniel to Chief Manager, Personnel to grant on duty leave.
- M12 01-11-95 Xerox copy of the letter from Enquiry Officer Posting enquiry on 15-11-95.
- M13 02-11-95 Xerox copy of the letter from Respondent to Genral Secretary of the Union sanctioning leave.
- M14 18-11-95 Xerox copy of the letter from Enquiry Officer to Jayakaran Daniel adjourning enquiry to 21-11-95.
- M15 21-11-95 Xerox copy of the enquiry proceedings dt. 21-11-95.
- M16 16-12-95 Xerox copy of the plant by Jayakaran Daniel in C.S. No. 2087/95.
- M17 Jan, 96 Xerox copy of the affidavit of Respondent Bank in O.A. No. 1342/95 in C.S. 2087/95.
- M18 06-03-96 Xerox copy of the order of High Court in O.A. No. 1342/95.
- M19 27-03-96 Xerox copy of the order of Division Bench of Madras High Court dismissing OSA No. 71/96.
- M20 03-04-96 Xerox copy of the letter from Jayakaran Daniel to Disciplinary Authority.
- M21 03-04-96 Xerox copy of the letter from Disciplinary Authority To Jayakaran Daniel granting time till 10-4-96 to Submit his comments.
- M22 01-06-94 Xerox copy of the Circular No. 20/94 of AIOBEU.
- M23 26-06-94 Xerox copy of the circular dated 20-6-94 of AIOBEU.
- M24 Nil Xerox copy of the order passed by High Court in W.P. No.3346/97.
- M25 07-06-98 Xerox copy of the common order passed by High Court in Writ Petitions.
- M26 30-08-96 Xerox copy of the letter from Ministry of Labour, New Delhi.
- M27 12-03-94 Xerox copy of the Circular No. 11/94 of AIOBEU.
- M28 17-04-96 Xerox copy of the Circular No. 10/96 of AIOBEU.

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1704.—औद्योगिक विवाद अधिनियम, 1947 1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध से निर्विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, चंडीगढ़ के पंचाट (संदर्भ संख्या 151/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-04-2002 को प्राप्त हुआ था ।

[स. एल-12012/96/99-आई.आर. (बी I)]

अख्य कुमार, डैस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Case No. 151/99) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 22-04-2002.

[No. L-12012/96/99-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING
OFFICER, CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH

Case No. 151/99

The General Secretary,
State Bank of India Staff Congress,
1304, Sector 23-B, Chandigarh.

.. Applicant.

Vs

State Bank of India,
The Dy. General Manager, State Bank of
India,
Zonal Office, Haryana, Sector 8-C,
Chandigarh-160017. .. Respondent.

REPRESENTATIVES :

For the Workman.—None.

For the Management.—Sh. Ajay Kohli.

AWARD

Chandigarh, the 8th April, 2002

The Central Govt. Ministry of Labour vide Notification No. L-12012/96/99/IR(B-I) dated 16-06-1999 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of Dy. General Manager, State Bank of India, Zonal Officer, Haryana, Chandigarh in terminating the services of Shri Rajinder Singh S/o Sh. Umed Singh

w.e.f. 1-10-1991 and denying him one chance for regular recruitment is just and legal? If not to what relief the workman is entitled to?”

2. None appeared on behalf of the workman and no claim statement also filed. It appears that the workman is not interested to pursue with the present reference. The same is returned and dismissed in default.

CHANDIGARH

Dated : 8-4-2002.

S. M. GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.अ. 1705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेवर कोर्ट, चंडीगढ़ के पंचाट (संदर्भ संख्या 175/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-04-2002 को प्राप्त हुआ था।

[सं. एल-12012/172/99-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Case No. 175 of 1999) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 22-04-2002.

[No. L-12012/172/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING
OFFICER, CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH

Case No. 175 of 1999

The General Secretary,
State Bank of India Staff Congress,
1304, Sector 23-B, Chandigarh-160001.

Applicant.

Vs

The Dy. General Manager,
State Bank of India,
Sector 17, Chandigarh-160017.

.. Respondent.

REPRESENTATIVES :

For the Workman.—None.

For the Management.—Sh. Ashok
Khullar.

AWARD

Dated : 8th April, 2002

The Central Govt. Ministry of Labour vide Notification No. L-12012/172/99/IR(B-I) dated 13-8-1999 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of State Bank of India, Chandigarh in unilaterally extending the zone and thereafter deny opportunity of absorption to Shri Ramesh Kumar who served as temporary messenger w.e.f. 24-4-1992 to 10-7-1992 is legal and justified. If not, to what relief is admissible to the workman and from when?”

2. None appeared on behalf of the workman and no claim statement also filed. It appears that the workman is not interested to pursue with the present reference. The same is returned and dismissed in default.

CHANDIGARH

S. M. GOEL, Presiding Officer,

नई दिल्ली, 23 अप्रैल, 2002

का.अ. 1706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत ओवरसीज बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर-कोर्ट, चंडीगढ़ के पंचाट (संदर्भ संख्या आई.डी. 183/90) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-04-2002 को प्राप्त हुआ था ।

[सं. एल-12012/237/90-आई.आर. (बी-III)/(बी-I)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd April, 2002

S.O. 1706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of

1947), the Central Government hereby publishes the award (Ref. No. I.D. 183/90) of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Overseas Bank Ltd. and their workman, which was received by the Central Government on 22-04-2002.

[No. L-12012/237/90-IR(B-III)|(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING
OFFICER, CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH

CASE NO. I.D. 183/90

The Asstt. General Secretary, Bharat
Overseas Bank Employees Union
C/o Bharat Overseas Bank, Bazar
Basanwala, Jalandhar City-144001.
Applicant.

Versus

The Manager,

Bharat Overseas Bank Ltd. S.C.O.
3025-26, Sector 22-D, Chandigarh-
160022. .. Respondent.

REPRESENTATIVES :

For the Workman.—Sh. B. N. Sehgal.

For the Management.—Sh. R. P. Bedi.

AWARD

Dated : 11th April, 2002

The Central Govt. Ministry of Labour vide Notification No. L-12012/237/90-I.R.B.III dated 28th November, 1990 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Bharat Overseas Bank Ltd. is justified in transferring Shri Vipin Kumar Dhanda; Clerk/Cashier from Juthiana to Banga Branch? If not, to what relief the concerned workman is entitled to?”

2. The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this

statement, the No dispute award is returned in the present case to the Ministry Central Govt. be informed.

S. M. GOEL, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2002

का.आ. 1707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर-कोर्ट, चंडीगढ़ के पचाट (संदर्भ संख्या आई. डी. 155/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-04-2002 को प्राप्त हुआ था ।

[सं. एल-12012/252/91-आई.आर (बी-III)/(बी-I)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd April 2002

S.O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 155/91) of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 22-04-2002.

[No. L-12012/252/91-IR(B-III)|(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 155/91

General Secretary, State Bank of India
Staff Congress, 3135 Sector-22-D,
Chandigarh. .. Applicant.

Versus

Regional Manager, State Bank of India,
Region-V (Punjab) SCO 103 to
110 Sector 17-B, Chandigarh.

Respondent.

REPRESENTATIVES :

For the Workman.—J. G. Verma.

For the Management.—V. K. Sharma.

AWARD

Dated : 11th of April, 2002

The Central Govt. Ministry of Labour vide Notification No. L-12012/252/91-IR(B-3) dated 22nd October, 1991 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the Regional Manager, State Bank of India, Chandigarh in terminating the services of Shri Devinder Goel, Godown Keeper, w.e.f. 9-7-84, without complying with the provisions of Section 25-H of the I.D. Act, 1947, is legal and justified? If not, to what relief the concerned workman is entitled to and from what date?”

2. The Representative of the workman made a statement that he withdraw the present reference in the Lok Adalat. In view of this statement, the No dispute award is returned in the present case to the Ministry, Central Govt. be informed.

S. M. GOEL, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2002

का.आ. 1708 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण तमिलनाडु, चेन्नई के पचाट (संदर्भ संख्या आई डी नं. 39 ऑफ 1986) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-04-2002 को प्राप्त हुआ था ।

[सं. एल-12012/150/85-डी. II(ए)/आई.आर (बी-I)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th April, 2002

S.O. 1708 —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. ID. No. 39 of 1986) of the Industrial Tribunal Tamil Nadu Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 23-4-2002.

[No. L-12012/150/85-D II(A)/IR(B.1)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
CHENNAI-104

Tuesday, the 26th day of March, 2002

PRESENT :

Thiru S.R. Singharavelu, B.Sc. B.L., Industrial Tribunal

Industrial Dispute No. 39 of 1986

(In the matter of dispute for adjudication under Sec. 10(1)(d) of the Industrial Dispute Act, 1947 between the Workman and the Management of State Bank of India, Rajaji Salai,

Chennai-600001.)

BETWEEN

The Workman
Shri Joseph Jayaseelan,
No. 306, Gandhi Pradana Salai,
T.V. Nagar, Thirumangalam,
Madras-600040.

AND

The Chief General Manager,
State Bank of India,
Rajaji Salai,
Madras-600001.

REFERENCE :

Order No. L-12012/150/85-D II(R) dated 26-5-1986,
Ministry of Labour, Govt. of India, New Delhi.

This dispute after remand coming on for final hearing on Friday, the 22nd day of March, 2002, upon perusing the reference, Claim and Counter Statement and all other material papers on record and upon hearing the arguments of Thiru S. Seethilnathan, Advocate appearing for the workman and of T.V. R. Sreekrishnan, G. Hariharan and R. Prabhakaran Jayaraj, Advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

The Govt. of India has referred the following issue for adjudication by this Tribunal.

"Whether the action of the management of State Bank of India Rajaji Salai, Madras in terminating the services of Shri Joseph Jayaseelan, sub-staff with effect from 19-4-1984 is justified? If not, to what relief is the workman concerned entitled?"

2. The main averments found in the Claim Statement of the Petitioner are as follows :

The Petitioner joined the service of State Bank of India under the Respondent on 12-6-1980 as Messenger. Ten months after suspension a show cause notice dated 8-7-1983 was issued to the Petitioner and the charges that emerge from the same are as follows :

"On 23-10-1981 you have been instrumental in a fraudulent withdrawal of a sum of Rs. 600 from the S.B. A/c No. 2763 of Sri S. Purushothaman maintained in our Aminjikarai branch.

On 23-9-1982, you tendered a sum of Rs. 80 for exchange of notes to Shri J. Sivasubramaniam Clerk-cum-Cashier at our Aminjikarai branch and received a sum of Rs. 800 instead of Rs. 80. You did not return the excess cash paid to you."

On 27-9-1982 while the petitioner was at home the Branch Manager of Aminjikarai branch Mr. K. Srinivasan, Accountant, Peter Vigilance Office, Namachivayam and Balasubramanian, clerk of the same branch came to the petitioner's house and threatened and coerced him to give a statement admitting the 1st charge. The petitioner's father was also compelled

to write a statement according to the dictation of the Vigilance Officer. Even before the petitioner could submit his explanation enquiry was ordered. He brought to the notice of the enquiry officer in his letter dated 16-9-1983 and requested him to furnish him with copy of the above mentioned statements. The enquiry officer in his communication dated 20-9-1983 informed him that the copy of the statement would be sent to him by the prosecution directly before the enquiry date. But he was not furnished. The petitioner appeared before the enquiry officer and requested him to grant two weeks time as his union representative was not available to defend him in the enquiry on account of agitation in the bank. But the enquiry officer declined to adjourn the enquiry and allowed half-an-hour time only, to get assistance. The enquiry conducted against the petitioner is vitiated by material irregularity. The enquiry was not conducted fairly and properly following the principles of natural justice. Even before passing the dismissal order the respondent did not give show cause notice to him. The respondent did not consider his past records before inflicting the capital punishment on him. The enquiry officer was biased and failed to conduct himself impartially. Even during personal hearing he could not avail the Assistance of Union representative. The petitioner therefore prays that this tribunal may be pleased to pass an award holding that the non-employment of the petitioner is unjustified and directing the respondent to reinstate him in service with back wages, continuity of service and attendant benefits.

3. The main averments found in the Counter Statement of the Respondent are as follows :

It is not correct to say that the statement admitting the Charge was obtained from him by compulsion or coercion. In fact the petitioner on his own accord admitted the Charge and gave the statement. There was no compulsion or coercion by any one and the petitioner himself by his own free will admitted his guilt. The Investigating officer never threatened him to hand over to the police. It is not correct to say that the Bank went wrong in not furnishing the petitioner with copies of the letter which the petitioner himself wrote voluntarily and fully knowing and understanding the contents and consequence thereof. The enquiry officer was forced to set the petitioner ex-parte went on with the enquiry proceedings. It is by his own fault the petitioner was set ex-parte. In fact with intention to obstruct, avoid and delay the enquiry proceedings the petitioner failed to arrange for his defence counsel, and hence now he cannot turn around and say that he was not given sufficient opportunity to defend the case. Since he deliberately remained ex-parte, the enquiry had to be conducted in his absence. Even then the enquiry officer conducted a fair enquiry and found the petitioner guilty of the charges and sent his findings to the Disciplinary authority. The Appellate Authority has followed the procedures in accordance with the Principles of Natural Justice and after affording personal hearing to the petitioner gave his decision accordingly and hence his decision does not suffer from informality or prejudice. The action of the respondent management in accepting the Enquiry report (which was submitted after due and proper enquiry) and awarding confirming the punishment of dismissal without notice was perfectly justified and proper. It is therefore proved that the tribunal be pleased to pass an award in favour of the respondent management upholding the punishment imposed on the petitioner and close the Industrial Dispute accordingly.

4. On behalf of petitioner/workman, WW1 Thiru Joseph Jayaseelan has been examined and Ex. W1 to W3 were marked. On behalf of respondent, MW1 Th. S. Jayabalan, MW2 Th. K. Navasivayagam, MW3 Th. V. Srinivasan, MW4 Th. G. Mani, and MW5 Th. K. Ramakrishnan and Ex. M1 to M27 were marked.

5. A Preliminary enquiry was in the Industrial dispute was held wherein an Order was passed by this Tribunal on 29-4-1991 holding that the Domestic enquiry was not held in accordance with the fair play and principles of natural justice. Therefore, the respondent/management was given an opportunity to prove the charges by adducing evidence in this Tribunal. The enquiry was adjourned to 24-5-1991. MW1 to MW5 were examined and Ex. M1 to M27 were marked. After considering the evidence on record, this tribunal passed an Award on 22-7-1994 holding that the action of the management in terminating the services of the workmen w.e.f. 19-1-1984 was justified.

6. As against the same, the workmen preferred W.P. No. 16644/95 wherein an Order was passed on 31-8-2001, it was held that the Point that should have been framed by the Industrial Tribunal was whether the workman was guilty of the charges and whether the punishment imposed is liable to be interfered with. It was held that the Tribunal had proceeded as if the action taken by the management in terminating the services of the Writ petitioner was justified or not. Therefore the following was observed :

"This misdirection on the part of the first respondent Industrial Tribunal vitiates the entire award. There is an apparent error on the face of the award of the first respondent Industrial Tribunal and it had not examined the material issue as to whether the writ petitioner is guilty of the charges or as to whether the second respondent bank had established the charges framed against the writ petitioner by the evidence already let in by the second respondent bank. This aspect is totally absent.

In such circumstances, the award of the first respondent Tribunal is set aside and the matter is remitted back to the first respondent Industrial Tribunal for de novo proceedings from the stage at which illegality has crept in. In Industrial Tribunal shall frame appropriate points for consideration, heard the arguments of the learned counsel on either side, answer the same and give a disposal according to law."

7. Therefore, the Point for consideration is (1) Whether the workmen is guilty of the charges (2) whether the punishment imposed is liable to be interfered with? Argument of both sides was heard.

8. Point No. 1: The petitioner by name Joseph Jayaseelan joined in the Services of the respondent bank on 12-6-1980 as messenger. While he was working in the Aminjikarai branch of the bank, he was placed under suspension by an Order dated 13-10-1982. He was issued Charge Memo on 8-7-1983 through Ex. W1. The two charges framed against him were as follows :

- (i) On 23-10-1981 you have been instrumental in a fraudulent withdrawal of a sum of Rs. 600 from the S.B. A/c No. 2763 of Shri B Purushothaman maintained at our Aminjikarai branch.
- (ii) on 23-9-1982, you tendered a sum of Rs. 80 for exchange of notes of Shri J. Sivasubramanian Clerk-Cashier at our Aminjikharai branch and received a sum of Rs. 800 instead of Rs. 80. You did not return the excess cash paid to you.

9. We have to now find as to whether these charges were proved by the evidence adduced in this Tribunal by the management, apart from the domestic enquiry. Regarding Charge No. 2 the relevant documents are Exs. M21, M22 and M27. The oral evidence was adduced by MW3 who has deposed as follows :

Other Language

10. But the workman has disputed the so-called statement of him through Ex. M21. According to the workman he has not confessed as mentioned in Ex. M21. Even according to Ex. M21, it was written by the petitioner-workman. Now the signature and handwriting are disputed. The disputed signature of the workman was not sent for analysis. Further MW3 deposed that he had not remember as to whether he was present at all during the execution of Ex. M21. No other witness to that letter was also cited or examined. The alleged executor disputed it. Therefore Ex. M21 cannot be used against the workman. The charge was that the Clerk/Cashier Mr. Sivasubramanian had given a sum of Rs. 800 to the workman instead of Rs. 80 due to him. The said Sivasubramanian has not been examined. There is no legal evidence as to whether at all he had departed Rs. 800. Therefore Charge No. 2 can be said as not proved.

11 So far as Charge No. 1 is concerned, it is an alleged fraudulent withdrawal of a sum of Rs. 600 from the S.B. Account No. 2763 of P. Purushothaman. In this connection, Purushothaman has not been examined. In proof of this Charge also, the evidence of MW3 Thiru Srinivasan who was the witness for the alleged confession of Ex. M16 was

relied upon. Ex. M16 also was not written by the petitioner/workman. It was written by his father Pitchaimuthu. It was said to have been signed by the petitioner/workman. Now the dispute is whether the signature was obtained by coercion. The case of the management should be established with satisfactory evidence. Whether the alleged confession of Ex. M16 is sufficient to find him guilty is the question. The answer is that it is not sufficient because the charged fraud is to be established by accepting evidence instead of the disputed confession evidence.

12. In this connection, the evidence of handwriting expert who was examined as MW5 is to be looked into. He has marked the admitted signature of Purushothaman found in Ex. M17 and M18 as S1 to S5. Similarly he has marked the admitted signature of petitioner/workman as S6 to S13. Now the disputed signature found in the instrument by which amount was withdrawn from the bank was compared. The opinion of the expert was that the disputed signature do not appear to be as that of the signatory of S1 to S5 namely Purushothaman. Any way he is not able to opine as to whether the disputed signature belongs to the petitioner workman who is a signatory of S6 to S13. Thus there is lack of evidence of the expert to hold that the instrument in and by which the amount was withdrawn contained the signature or handwriting of the petitioner/workman.

13. Again in the earliest document under Ex. M1, the following was mentioned :

"the official concerned passed it for payment in god faith as he could not easily locate the subsequent signature."

Thus it was not proved that the withdrawal from by which fraudulent withdrawal was made did not contain the signature or handwriting of the petitioner. Further under Ex. M1 the letter of the management dated 17-12-1981, it was contended that the concerned official had passed the withdrawal slip for payment without locating the specimen signature. So the lacuna was on the part of the passing officer. It is due to his negligence only the withdrawal slip was passed for encashment without verifying the specimen signature of Purushothaman contained in Ex. M17. Had he been diligent, the withdrawal would not have been ordered for encashment. When it was ordered, anybody in the Cash Section would have disbursed. From the above discussions, it is made clear that the department has not linked the petitioner/workman in the above fraudulent transaction. So he cannot be found guilty in Charge No. 1 also. Thus the Charge Nos. 1 and 2 are not found proved for lack of evidence. Therefore, the Order of termination of his Sub-staff w.e.f. 19-1-1984 is not justified. By applying the principle of 'No work and No pay', no back wages could be granted. He is entitled for reinstatement only. Thus award passed accordingly. No costs.

Dated at Chennai, this 26th day of March, 2002.

S. R. SINGHARAVELU, Industrial Tribunal

I.D. NO. 39/86

Witnesses examined

For Petitioner/Workman

WW.1 Thiru S. V. Jayabalan
(Petitioner-workman)

For Respondent/Management

MW.1 Thiru S.V. Jayabalan
MW.2 Thiru K. Namasivayam
MW.3 Thiru V. Srinivasan
MW.4 Thiru G. Mani
MW.5 Thiru K. Ramakrishnan

Documents marked

Ex. W1 8-7-83 Charge memo issued to petitioner, workman.

Ex. W2	20-9-83	Letter to the Enquiry Officer by the petitioner/workman.
Ex. W3	24-3-84	Order of the Chief Regional Officer of the Management bank.
Ex. W4	28-5-84	Order of the Chief Regional Officer of the Management bank.
Ex. W5	16-9-83	Letter from the petitioner workman to the Enquiry Officer.
Ex. W6	8-8-83	Letter from the petitioner/workman to the Disciplinary authority.
Ex. W7	5-12-83	Circular issued by State Bank's Staff Union.
Ex. W8	12-12-83	Circular issued by State Bank's Staff Union (Madras Circle) Madras regarding 'The GRIM BATTLE'.

For Management

Ex. M1	17-12-81	Complaint by the Branch Manager of Management bank, against Th. S. Purushothaman to the Commr. of Police, Madras (xerox).
Ex. M2	8-1-82	Letter from Tvl. S. Karunakaran, G. Mani and Pankajaraj to the Management bank.
Ex. M3	10-3-83	Particulars of Charges against the petitioner-workman (xerox).
Ex. M4	10-11-83	Proceedings of the Enquiry Officer (xerox).
Ex. M5	8-12-83	Proceedings of the Enquiry Officer (xerox)
Ex. M6	8-12-83	Proceedings of the Enquiry Officer (xerox).
Ex. M7	9-12-87	-do-
Ex. M8	14-12-83	Prosecution brief submitted by Prosecution Officer (xerox).
Ex. M9	27-12-83	Report of Enquiry Officer (xerox).
Ex. M10	19-1-84	Personal hearing afforded to the petitioner.
Ex. M11	21-3-84	Proceedings of the Appellate Authority.
Ex. M12	21-3-84	Order of the Appellate Authority.
Ex. M13	24-3-84	Letter from Appellate authority to the petitioner-workman.

Ex. M14	28-5-85	Letter from Chief Regional Manager of the Management bank to the petitioner workman (xerox).
Ex. M15	16-5-83	Report of Tamil Nadu Forensic Science Lab., Madras (xerox)
Ex. M16	27-9-82	Letter from petitioner-workman to the respondent/Mgt.
Ex. M17	21-9-81	Application to open an Account by Thiru Purushothaman.
Ex. M18		Specimen signature of Thiru Purushothaman.
Ex. M19	7-12-81	Complaint letter from Th. Purushothaman (xerox).
Ex. M20	23-10-81	Savings bank withdrawal order form for Rs. 600/-.
Ex. M21	25-9-82	Letter from Petitioner/workman to Th. J. Sivasubramaniam Clerk (xerox).
Ex. M22	25-9-82	Letter from Thiru J. Sivasubramanian, Clerk to the Respondent-bank (xerox).
Ex. M23	23-9-82	Savings Bank withdrawal order form for Rs. 400/-.
Ex. M24	23-9-82	Saving bank withdrawal order form for Rs. 80/-.
Ex. M25	..	Letter from Respondent-bank to the Director, Tamil Nadu Forensic Science and Chemical Laboratory, Madras.
Ex. M26	16-5-93	Reply letter from the Director and Chemical Examiner to the Government of Tamilnadu Forensic Science Laboratory, Madras—4 to the respondent-bank.
Ex. M27	6-10-82	Letter from the Petitioner-workman to the Respondent-bank.

नई दिल्ली, 10 मई, 2002

का.आ. 1709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, कानपुर के पंचाट (संदर्भ संख्या आई.डी. 8 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-05-2002 को प्राप्त हुआ था।

[सं. एल-12012/345/2001- आई. आर. (बी-1)]

अजय कुमार डैस्क अधिकारी

New Delhi, the 10th May, 2002

S.O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 8 of 2002) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 10-05-2002.

[No. L-12012/345/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT SARVODAYA NAGAR, KANPUR

Industrial Dispute No. 8 of 2002

In the matter of dispute between :—

Shri Bharat Singh Bhadauria,
S/o Sri Govind Singh Bhadauria,
Resident of Nandan Talab Arail,
District Allahabad-211006.

AND

The Assistant General Manager,
IV, State Bank of India,
Regional Office,
Cantt Varanasi-221001.

AWARD

1. Central Government Ministry of Labour, New Delhi, vide its notification No. L-12012/345/2001-IR(B-I) dated 11-1-2002, has referred the following dispute for adjudication to this tribunal :—

Whether the demand of Sri Bharat Singh Bhadauria for reinstatement in service of State Bank of India with effect from August 1999, the month from which he was allegedly, illegally been terminated by the management of State Bank of India, is justified? If so, what relief he is entitled?

2. In the instant case after the receipt of reference order from the Government of India registered notice was issued to the concerned workman for filing of his statement of claim

in support of his demand fixing 21-3-2002. When on 21-3-2002 the case was taken up for hearing neither the concerned workman appeared nor filed his statement of claim.

3. Thus from the above conduct of the concerned workman it appears that the concerned workman is not interested in prosecuting his case. In view of it the tribunal is left with no other option but to hold that the concerned workman is not entitled for any relief in pursuance of the reference made to this tribunal by the Government of India for want of pleadings and proof.

4. Reference is answered accordingly against the concerned workman.

R. P. PANDEY, Presiding Officer
6-5-2002.

नई दिल्ली, 3 मई, 2002

का.आ. 1710.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जून, 2002 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 अध्याय-5 और 6 (धारा 76 की उपधारा(1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्

“जिला इरोड के पेरन्थुराय तालुक में चेन्नीमलाय अन्तर्गत आने वाले राजस्व ग्राम चेन्नीमलाय, मुगासी पिद, रियुर, मुख्न्गाथोलोवू और अत्तावानाय विदारियुर”।

[संख्या एस-38013/10/2002-एस.एस.-1]

अलोक अग्रवाल, अव्वर सचिव

New Delhi, the 3rd May, 2002

S.O. 1710.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st June, 2002 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

“Areas comprising the Revenue Villages of Chennimalai, Mugasipidariyur, Murungastholuvu and Attavanai Pidariyur in Perunthural Taluk of Erode District.”

[No. S-38013/10/2002-SS-I]

ALOK AGARWAL, Under Secy.